



Shall there be a constitutional convention?

Commonwealth North is a non-profit nonpartisan public policy organization founded in 1979. Its purpose is to educate its members and others on significant public policy issues affecting Alaska and its future, and to assist in their resolution.

In June Commonwealth North formed a volunteer study group to identify reasons why, on November 5, Alaskans should vote for or against convening a constitutional convention.

The following report from the study group was approved for statewide distribution by the Commonwealth North Board of Directors on August 13, 2002.

Facts about the ballot issue

1. What is the Alaska constitution?

The Alaska constitution is the supreme law of the State of Alaska. No other state law is permitted to violate the principles we adopted when we ratified the constitution in 1956.

The constitution establishes that we shall govern ourselves as a state via three branches of government: a legislature comprising a Senate and House of Representatives, an executive branch comprising a governor, lieutenant governor and appointed commissioners, and a judicial branch comprising superior and supreme courts. It expressly defines the powers and responsibilities of each branch.

In addition, the constitution expressly sets forth public policies that protect the individual citizen from the power of the government. These policies are our “civil rights.”

Another category of general public policy set forth in the constitution identifies matters that we deem to be so vital to our success as a state that we set them forth as supreme law of our state. Some examples of this kind of policy are use of our natural resources, spending limits, taxation, dedication of funds, and establishment of the constitutional reserve fund.

2. Why is the question of convening a constitutional convention on the ballot Tuesday, November 5th?

Alaska’s Constitution (Article XIII, Sec. 3) requires that at least once every ten years, the public has the opportunity to decide whether a constitutional convention is necessary in order to change the constitution: “If during any ten-year period, a constitutional convention has not been held, the Lieutenant Governor shall place on the ballot for the next general election the question: “Shall there be a constitutional convention?” If a majority of the votes cast on the question are in the negative, the question need not be placed on the ballot until the end of the next ten-year period.”

3. Has a constitutional convention been held since the original convention?

No. The first time the issue appeared on the ballot in 1970, the question on the ballot asked “As required by the Constitution of the state of Alaska, Article XIII, Section 3, shall there be a constitutional convention?” It narrowly passed 39,911 to 34,472. Citizens filed suit alleging that the wording was misleading because it implied that the constitution required a convention. The court agreed. On the 1972 ballot, the question asked: “Shall there be a constitutional convention?” It was defeated 55,389 to 29,492.

4. Do we have to have a constitutional convention in order to amend the constitution?

No. Article XIII, Section 3, establishes that the Alaska constitution can be amended by a two-thirds (2/3) vote of both the House and the Senate to place a proposed amendment on the next general election ballot for voter consideration. If a majority of the votes cast in the next general election approve the amendment, it becomes a part of the Alaska constitution.

5. Has the Alaska constitution been amended since it was first ratified?

Yes, twenty-seven (27) amendments have been added to the Alaska Constitution since it was ratified by the voters on April 24, 1956. These amendments are set forth at www.gov.state.ak.us/litgov/akcon/summary.html.

6. What happens if we approve a constitutional convention in November?

A “call” for the convention must be issued. The “call” determines how many constitutional delegates shall be elected and from where, the physical site of the convention, when the convention shall begin and how long it will last. It also appropriates the money to pay delegate per diem expense and all other costs that the constitutional convention can reasonably be expected to incur. Article XIII, Section 3 of the constitution requires that “The appropriation provisions of the call shall be self-executing and shall constitute a first claim on the state treasury.”

7. How does the call happen?

The constitution provides that although the lieutenant governor must issue the call, the details of the call are determined by the legislature. If no law is enacted by the legislature, the original call set forth in Chapter 46 of the 1955 Session laws must be followed.

8. Who can be a delegate?

Any adult resident of the State of Alaska can file for and campaign to be elected a delegate. All candidate names appear on the ballot. The 1955 call had all delegates elected on a non-partisan ballot. If the legislature establishes the call, it will determine whether the delegates are elected on a partisan or a non-partisan ballot. The provisions of Alaska Statute 15.13 regarding state election campaigns apply to candidates for the convention.

9. What kinds of changes to the constitution can the delegates consider?

The delegates have plenary powers which mean that they can consider any changes that they want or that are recommended to them by any groups or individuals. All provisions of the constitution as originally adopted and as subsequently amended are open for delegate consideration.

10. Can I influence the delegates for a specific change I want to see included?

Yes. Any individuals or groups who want a constitutional change may try to influence the delegates. Individuals or groups attempting to influence the delegates are not expressly required to comply with either Alaska's lobbying statute (AS 24.25) or APOC lobbying regulations.

11. What happens if the voters do not approve a constitutional convention?

The legislature may place the question on any future general election ballot. The constitution requires that the question must be presented to the voters every ten (10) years.

12. How much will a constitutional convention cost?

The total cost to the state treasury is unknown, but will minimally include such things as any additional cost to the general election where delegates are selected, physical accommodations for convention meetings and staff offices, salaries and benefits for support staff, electronic infrastructure for convention delegates and staff, daily supplies, delegate per diem expense and travel, printing and distribution of convention recommendation(s).

13. What happens after a constitutional convention is completed?

All changes approved by a majority of the delegates are presented to voters in the next general election. All proposed changes are usually voted on individually and those changes approved by a majority of the voters become a part of our constitution. If no changes are approved by a majority of the delegates, the convention simply adjourns. If Article VIII, Sec. 3 of the constitution remains, "Shall there be a constitutional convention?" will be on the 2012 general election ballot.

What changes to the Alaska Constitution are being discussed?

Survey

In July, Commonwealth North conducted two informal surveys of various elected and appointed state leaders and organizations to gauge the general level of interest in having a constitutional convention and to identify some of the possible changes to the Alaska Constitution that are being discussed.

Respondents favoring a constitutional convention listed potential changes using the following express words:

Changes to the Legislative Branch:

- Wider use of funds for education consistent with recent U. S. Supreme Court rulings
- Limit service in Senate to 18 years and in House to 8 years
- Limit terms of House and Senate to 2 terms each
- Unicameral legislature
- Unicameral legislature limited to 49 people
- Limit legislative sessions to ninety (90) days
- Require open meetings
- Legislature elected non-partisan
- Training for “citizen” representatives
- Lessen the vote required to use the Constitutional Budget Reserve Fund
- Restore how Constitutional Budget Reserve functions to the original intent of the voters
- Allow legislature to propose single subject constitutional amendment or allow it to propose “revisions” like the California constitution allows
- Establish a spending limit
- Give legislature power to repeal regulations by joint resolution
- Require legislative confirmation of major state owned public corporations
- Require Permanent Fund and AHFC Board members be subject to legislative confirmation
- Fix terms for Permanent Fund and AHFC Board members.

Changes to the Executive Branch:

- Elect the attorney general
- Require executive branch to prioritize programs and expenditures

Changes to the Judicial Branch:

- Selection of judges
- Elect all judges
- Reduce terms of judges to four (4) years and of justices to eight (8) years.
- Clarify that courts cannot appropriate state funds

Changes in general public policy:

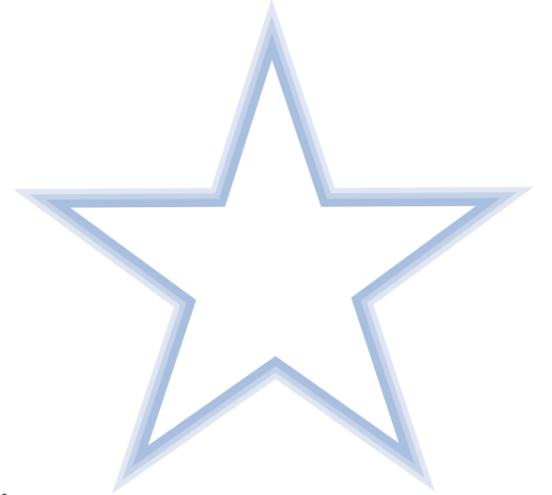
- Structure management of land to provide revenue

- Authorize subsistence preference for rural residents
- Require a vote on the subsistence issue
- Allow tax dollars to be used by parents to choose either a public or private school for their children
- Campaign finance reform
- Require local more local contribution to local schools
- Establish control over federal lands
- Address problems with resource development due to Article VIII, Section 3 common use clause especially re: “mariculture sites and standing stocks”

Additional Discussions

Although neither the Constitutional Convention Study Group survey nor publicly discussed changes to the constitution can include every change that may be sought should a convention be held, members of the Constitutional Convention Study Group are aware that the following additional changes have been discussed at public forums or in the media. (See appendix B.)

- Limit governor to one six (6) year term
- Give legislature power to approve or reject all regulations
- Give legislature authority to file a lawsuit on behalf of the state of Alaska
- Limit the kinds of lawsuits that can be filed by people and the remedies that be received for harm caused by business malfeasance, defective products, and professional malpractice
- Establish constitutional entitlement to a permanent fund dividend
- Include land use policies which establish how land must be or can not be used
- Establish educational policies and funding re: school vouchers, public funding of all schools; policies that schools must follow
- Set forth the exact time that life begins
- Add the initiative amendment process
- Establish all native villages as tribes and give each tribe civil and criminal jurisdiction over village residents
- Clean up some of the language and provisions
- Rewrite the Preamble to be more inclusive



Survey Mechanics

Although Commonwealth North could not survey every person or group that may seek changes to the Alaska Constitution should a convention be approved, it sent one survey to the 60 incumbent legislators, the governor, lieutenant governor, commissioners, members of the supreme court, appellate court and presiding trial judges. This survey did not ask the recipients either to identify their responses or whether they favored convening a constitutional convention. A second survey was mailed to the same officials and to many organizations. All recipients of both surveys are listed in Appendix A. The respondents to either survey are listed in Appendix B.

The first survey asked: (1) what constitutional changes, if any, do you believe should be made to the way in which the three branches of government function (separately or together)? (2) What constitutional changes, if any do you believe should be made to the general public policy concepts set forth in the Alaska Constitution? (e.g. of such policies are the management of public lands provisions of the constitution.) (3) If a constitutional convention is held, will you seek to be a delegate? Yes ___ No ___

The second survey asked: (1) Do you favor a constitutional Convention? Yes _ No _ (2) If a convention convenes, what changes would you recommend to the way the branches of government are structured in the Alaska Constitution? (e.g. unicameral legislature, terms of office, elected judges, etc.) (3) If a convention convenes, what changes do you recommend to the way the Alaska Constitution currently distributes the authority to govern among the three branches of government? (e.g. appointment authority, appropriations, land use management, taxing etc.) (4) If a convention convenes, what changes do you recommend to the general public policy concepts set forth in the Alaska Constitution? (e.g. civil rights, management of public resources, etc.)

Survey Statistics

The first survey was mailed to 90 officials. 16 (18%) responded. 8 (50%) listed changes they believed should be made to the constitution if a convention is convened; 8 (50%) did not list any changes.

The Second survey was mailed to recipients of the first survey plus 41 additional individuals or organizations. 17 (13%) responded. Of these responses, 13 (76%) did not favor convening a constitutional convention. 2 (12%) favored a convention. 2 (12%) expressed no opinion. Of the 17 responses, 5 (29%) listed changes they recommended be made to the constitution if a convention is convened.

Yes or No ~ Shall there be a constitutional convention?

Yes. Alaska has serious problems that need to be resolved. We are not solving such issues as how to use our natural resources, how best to realize the benefits of our common ownership of state resources, how to prioritize use of fish and game in times of shortage, how to close the fiscal gap between state income and state expenditures.

No. The problems facing Alaskans today result from years of population growth and economic development combined with fiscal decisions by legislatures and development decisions by governors. The constitution already provides either the legislature or the executive branch with the power and authority to effectively solve these problems. The fact that these problems are not being solved results from failure of the executive and legislative branches to function properly in some areas. Weak leadership cannot be fixed by a constitutional convention.

Yes. A constitutional convention would be healthy for Alaska at this time. It would provide an open forum for discussion that would attract a diversified group of individuals who do not serve in the legislature or executive branches of government. Such an open forum could focus attention on our basic governance and policy needs for the future. A constitutional convention is an opportunity for Alaskans to dialogue about the state they want to live in. Individuals and special interests will undoubtedly have a voice. Such dialogue is the essence of the democratic process. Because groups such as Alaska Natives and other minorities were under represented at the first convention, a constitutional convention at this time could include their voices. Delegates would take a reasoned, responsible approach in a needed forum for broad discussion of issues that divide Alaska. Even if such discussions do not lead to change, it could at least lead to a greater understanding for divergent positions.

No. There is no requirement or even certainty that candidates for convention delegates will be community, Alaska Native, other minority, or business leaders who are visionary, non-partisan, and have "no axe to grind." Any adult resident who wants to be a delegate for any reason does and should have the right to be a candidate and to be elected. Depending on how the legislature decides the details of delegate selection, and where and for how long the convention will be held, it is uncertain whether business, community, minority, or Alaska Native leaders will be able to devote time and resources to being a convention delegate. Alaska affords many opportunities for business, community and Alaska Native and other minority leaders to come together to discuss Alaska's future and to reach consensus or greater understanding of the different points of view about Alaska's future. These opportunities include governor and legislative task forces, public forums such as the Alaska 20/20 project, and discussions organized by various community and statewide not-for-profit groups. It is unnecessary to have a constitutional convention in order for Alaskans to dialogue about the future of Alaska.

Yes. A constitutional convention would provide an opportunity for Alaskans from all sectors of society -- not just partisan, political, elected or appointed leaders -- to consider whether the constitution needs to be changed and if so, how. Any disappointment or dissatisfaction with the ability or willingness of current elected or appointed officials to deal with Alaska's problems could be overcome by such new leadership. The delegates could assess how a restructured government might work and what general public policies should be elevated to constitutional mandates. From their discussions and recommendations, a new vision of Alaska may emerge which can unify all Alaskans.

No. Getting elected as a convention delegate will involve filing for office, conducting a campaign and complying with campaign laws. The campaign will be easiest and least expensive for candidates who already have public name recognition. Delegates will have to be away from their business or profession for some weeks which may discourage many Alaskans from seeking such leadership. Delegates new to the political process are likely to be subjected to the organized influence of special interest groups. Political inexperience of delegates may result in disproportionate input from some groups and a lack of equal consideration of all meritorious points-of-view. A constitutional convention is too important, too expensive, and too time-consuming to be used as a recruitment tool or training ground for new state leaders.

Yes. Alaskans need a constitutional convention in order to amend the state constitution to provide specifically for subsistence hunting and fishing. The amendment is needed (1) to heal the "urban/rural" division in our state; and (2) so that the Federal Government will once again let Alaska manage fish and game on federal land in Alaska.

No. A constitutional convention is not needed to vote on one specific matter such as a subsistence amendment. The voters of Alaska have repeatedly demonstrated that they want to vote on a subsistence amendment yet a group of legislators repeatedly refuses to put it on the ballot. The special interest groups that have successfully lobbied these legislators to keep the issue off the ballot are likely to also lobby convention delegates to do the same. However, unlike the lobbying of legislators, disclosure of lobbyists who work to influence convention delegates is not expressly required by the lobbying statutes or regulations. The solution is not to convene a constitutional convention; the solution is to elect legislators who will follow the will of the people.

Appendix A: Survey Recipients

Alaska Conservation Alliance	Tom Atkinson	Executive Director
Miners Association	Steve Borell	Executive Director
Alaska Oil & Gas Association	Judy Brady	Executive Director
Alaska Outdoor Council	Jerry Burnett	President
Anchorage Convention & Visitors Bureau	Bruce Bustamante	President & CEO
Alaska Judicial Council	Larry Cohn	Executive Director
Uof A Board of Regents	Chancy Croft	Chair
Alaska Housing Finance Corporation	Daniel Fauske	CEO/Executive Director
Planned Parenthood of Alaska	Anna Franks	Executive Director
Alaska State AFL-CIO	Mano Frey	Executive President
Alaska Railroad Corporation	General Patrick Gamble	President and CEO
University of Alaska Anchorage	Edward Lee Gorsuch	Chancellor
University of Alaska System	General Mark Hamilton	President
Teamsters Local 959	Jerry Hood	Secretary/Treasurer
Alaska Support Industry Alliance	Larry Houle	General Manager
Anchorage Chamber of Commerce	April Jensen	President
Alaska Mental Health Trust Authority	Jeff Jessee	Executive Director
Alaska State Medical Association	James Jordan	Executive Director
The Rasmuson Foundation	Diane Kaplan	President
Alaska Science & Tech. Fdn.	James Kenworthy	Executive Director
Alaska Federation of Natives	Julie Kitka	President
NEA – Alaska	Rich Kronberg	President
Alaska State Chamber of Commerce	Pamela La Bolle	President
University of Alaska Fairbanks	Marshall Lind	Chancellor
Alaska Right To Life	Bob Lyn	President
Pacific Seafood Processors Assoc.	Stephanie Madsen	Vice-President
At-Sea Processor Association	Trevor McCabe	Executive Director
Alaska Bar Association	Deborah O'Regan	Executive Director
Resource Development Council	Thaddeus Owens	Executive Director
AIDEA	Robert Poe	Executive Director
University of Alaska Southeast	John Pugh	Chancellor
Alaska Municipal League	Kevin Ritchie	Executive Director
Alaska Inter-tribal Council	Margaret L. Roberts	Executive Director
American Civil Liberties Union	Jennifer Rudinger	Executive Director
U.S. District Court	Hon. James Singleton	Chief Justice
Denali Commission	Jeff Staser	Federal Chairman
Alaska Permanent Fund Corporation	Robert Storer	Executive Director
Alaska Outdoor Council	Jessee VanderZanden	Executive Director
Alaska Forest Association	George Woodbury	President
National Rifle Association	Wayne Ross Eddie Grasser	National Director Field Representative
All current Alaska state legislators		
All current members of the Supreme Court		
All current members of the Appellate Court		
All current presiding trial judges		
The Governor and Lt. Governor of Alaska		
All current commissioners of state departments		
The Alaska Congressional Delegation		

Yes. After 43 years of statehood, thousands of laws, regulations and court decisions as well as twenty-seven amendments, we need to realize that the constitution is not working because it does not provide an appropriate structure of government. We need to restructure both the legislative and executive branches with different rules for each of them in order to manage successfully the commonly owned resources of Alaska. Alaska is unique in the United States due to its geographical location and size, and its common ownership of financial and natural resources. The people who wrote our constitution did not fully understand the responsibilities of common ownership. We need a constitutional convention to correct this. People who claim that we have a model constitution have not tried to live under it. Alaska needs a constitution that will provide a government structure that can manage our natural resources for the economic benefit and common good of all Alaskans. Alaska should be run more like an owner state and less like a government.

No. Our constitution is one of the most concise and flexible in the United States. It is recognized and used as a model by constitutional scholars around the world. It allows Alaska to meet its changing needs in a stable legal environment. It was created free of the “special solutions” that tie the hands of future leaders who will face new situations which demand new solutions. It allows the legislature its choice of legitimate means to develop public policy; it establishes a strong, unified executive and an independent, unified judiciary. The constitution does not have any major provisions that are outdated or too restrictive. Any individual change needed to achieve a specific goal can be made through the amendment process. This process permits us to focus public debate and discussion on a specific problem and the proposed constitutional solution. There is no justification to invite instability or to throw away 43 years of statehood experience by opening the entire constitution to “revision” of our basic structure of government.

Yes. A constitutional convention is an opportunity to create a modern document that reflects the economic, political and cultural changes that have occurred in Alaska since the 1950s. Although there are uncertainties and risks, it requires an inherent faith in the principles of democracy that in the end, Alaskans will do the right thing for the right reasons.

No. Convening a constitutional convention is very risky. Not only are there many unknowns, there are no compelling reasons for overhauling the constitution at this time.

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Appendix B: Survey Respondents

Although most of the respondents signed their response, the first survey to legislators, executive branch officials and judges expressly did not ask for respondents' identity. Consequently the following list does not identify seven respondents.

Alaska Railroad

Anchorage Chamber of Commerce Board of Directors

Kay Brown

Justice Carpeneti advised he feels ethically restrained from expressing an opinion

Sharon Cissna

Robert Coats

Betty Davis

Fred Dyson

Reggie Joule

Judicial Council

Mary Kapsner

James Kenworthy

Beth Kerttula

Vic Kohring

Albert Kookesh

Loren Leman

NRA

Resource Development Council

Scott Ogan

Deborah O'Regan

Joe Perkins

Randy Phillips

Planned Parenthood

Wayne Anthony Ross

Frank Rue

Drew Scalzi

Ben Stevens

In the section titled "What changes to the Alaska Constitution are being discussed?" Commonwealth North sets forth additional changes to the constitution that are being discussed. The sources for this list include the Community Commentary and the POINTCOUNTERPOINT sections of the Daily News, the April 1992 Alaska Common Ground issue paper, "Shall There be A Constitutional Convention", the 2002 public forum on the issue sponsored by Common Ground at the Wilda Marsten public library, April 27, 2002, and the 1992 Commonwealth North publication, "Shall There be A Constitutional Convention"?

Study Group Participants

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William Colbert

Co-chair

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Mike Heatwole

Joseph Henri

Governor Walter Hickel

H.R. "Ky" Holland

Grant Hunter

Janie Leask

Matt Moon

Frederick "Dutch" Overly

Nelson Page

Jeff Staser

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Thanks To Our Underwriters

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Alaska Airlines

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