

THE IRONY OF COMPREHENSIVE STATE CONSTITUTIONAL REFORM

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As 2010 began, it certainly promised to be a momentous year for state constitutional development. After three decades marked by a dearth of comprehensive constitutional revision, movements to organize state constitutional conventions emerged in two of America's largest states. In California, where Sacramento lawmakers confronted a third year of multi-billion-dollar budget deficits, a Silicon Valley business group known as the Bay Area Council announced plans to qualify two initiatives to amend the state constitution. The first would allow voters to call a constitutional convention via initiative—a power reserved for the state Legislature by California's current governing document—and the second would call a limited constitutional convention to carry out broad reforms of state government. A majority of California voters, responding to one poll, agreed that the state constitution required “fundamental changes.”¹ In New York, nearly two-thirds of voters voiced their support for a constitutional convention, and the idea received backing from prominent statesmen, including former New York City Mayor Rudy Giuliani and former Governor Mario Cuomo.²

After the initial burst of excitement, however, neither push for a constitutional convention came to fruition. In California, the Bay Area Council failed to raise sufficient funds for its “Repair California” campaign

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1. *State Constitutional Reform and Related Issues*, 3 CAL. OPINION INDEX, Oct. 2009, at 1, <http://www.next10.org/next10/pdf/COI-09-October-CA-Constitution-Reform.pdf>.

2. Nicholas Confessore, *As Voter Disgust With Albany Rises, So Do Calls for a New Constitution*, N.Y. TIMES, Aug. 3, 2009, at A17.

to pay for signature collectors to qualify the two initiatives for the statewide ballot. In New York, the lack of a direct initiative process and the absence of broad-based support for a convention in the state legislature have meant that the idea has not moved beyond talk among political activists. Nevertheless, the experience of both states has been important for bringing new popular and scholarly attention to the topic of comprehensive state constitutional reform—or more precisely, its absence.

Since at least the 1980s, piecemeal amendments have become the primary pathway through which voters have made substantive changes to their states' governing documents. Indeed, as amendment activity has picked up pace across the country, the use of constitutional revisions—which make broader, more fundamental changes to the state constitutions—has grown increasingly rare.³ Writing in the early 1990s, state constitutional scholar Janice May noted, “[c]onstitutional revision of a comprehensive or general scope [has been] conspicuous by its absence.”⁴

In this essay, I draw on a new dataset covering every state constitutional convention and revision commission held since 1965 to chart the decline of comprehensive constitutional reform. I show that, long before amendments became the primary force for state constitutional evolution and innovation, piecemeal changes came to trump comprehensive reforms. Building on recent political science research on mass political behavior and direct democracy, I develop two contrasting theories of constitutional change—the “logroll” and the “poison pill” models of reform—and argue that the second best explains the experience of the American states over the past five decades. I conclude by considering the irony of state constitutional reform—the reality that comprehensive reform efforts are most likely to succeed precisely when they most resemble the incremental approach pursued by standalone constitutional amendments.

I. LOGROLL MODEL OF CONSTITUTIONAL REFORM

In California, many political observers argue that a constitutional convention is necessary to fix state government precisely *because*, rather than *in spite*, of the state's unique history of frequent constitutional

3. G. Alan Tarr, *Introduction* to 3 STATE CONSTITUTIONS FOR THE TWENTY-FIRST CENTURY 1, 3 (G. Alan Tarr & Robert F. Williams eds., 2006); Bruce E. Cain & Roger G. Noll, *Malleable Constitutions: Reflections on State Constitutional Reform*, 87 TEX. L. REV. 1517, 1544 (2008).

4. Janice C. May, *State Constitutions and Constitutional Revision, 1990–1991*, in 29 THE BOOK OF THE STATES 2 (1992).

amendment via initiative.⁵ Since it was adopted in 1879, the state's constitution has been altered more than 500 times, making it one of the most frequently amended constitutions in the country.⁶ Indeed, there is extensive evidence that California voters have used the initiative process to make momentous changes to the structure and function of state government. In 1978, for example, voters approved Proposition 13, greatly limiting property taxes and setting off a nationwide populist campaign to do the same.⁷ A decade later, voters adopted Proposition 98, guaranteeing that the largest share of the state budget would be used to fund local public education.⁸ In the early 1990s, voters also enacted legislative term limits through the initiative process, setting a cap on how often public officials can be re-elected to serve in the state legislature.⁹

Yet, rather than making the state run better, many critics of California government have concluded that its embrace of direct democracy has only hurt the quality of state government. Ron George, the Chief Justice of the California Supreme Court, has argued that the excessive use of the initiative process to amend the state constitution has brought about a “dysfunctional state government, characterized by a lack of accountability on the part of our officeholders as well as the voting public.”¹⁰ Many supporters of a constitutional convention have echoed Chief Justice George's comments. Concluding that the state's “current gridlock calls for more than just passing an initiative,” the *Los Angeles Times* enthusiastically endorsed the Bay Area Council's call for a constitutional convention.¹¹

5. See generally PETER SCHRAG, *PARADISE LOST: CALIFORNIA'S EXPERIENCE, AMERICA'S FUTURE* 214–15 (1998).

6. See Bruce E. Cain, *Constitutional Revision in California: The Triumph of Amendment Over Revision*, in 1 *STATE CONSTITUTIONS FOR THE TWENTY-FIRST CENTURY* 59 (G. Alan Tarr & Robert F. Williams eds., 2006).

7. ISAAC WILLIAM MARTIN, *THE PERMANENT TAX REVOLT* 14 (2008).

8. CAL. LEGISLATIVE ANALYST'S OFFICE, 2009–10 BUDGET ANALYSIS SERIES: PROPOSITION 98 EDUCATION PROGRAMS, ED-5 (2009), available at http://www.lao.ca.gov/analysis_2009/education/ed_anl09.pdf (last visited Sep. 25, 2011); CAL. OFFICE OF THE GOVERNOR, 2011–12 PROPOSED BUDGET, 11 (2011), available at <http://www.ebudget.ca.gov/pdf/BudgetSummary/SummaryCharts.pdf>.

9. THAD KOUSSER, *TERM LIMITS AND THE DISMANTLING OF STATE LEGISLATIVE PROFESSIONALISM* 9–12 (2005).

10. Chief Justice Ronald M. George, *The Perils of Direct Democracy: The California Experience* (Oct. 10, 2009) (remarks prepared for induction ceremony of the American Academy of Arts & Sciences).

11. *A Smart Convention Plan*, L.A. TIMES, Jan. 3, 2010, <http://articles.latimes.com/2010/jan/03/opinion/la-ed-convention3-2010jan03>.

But why would a constitutional convention work where the process of constitutional amendment via initiative has failed? One answer offered by convention advocates, which draws heavily on traditional theories of legislative and distributive politics, can be described as the “logroll” model of constitutional reform. Unlike initiatives, which are constrained by the single-subject rule in California, constitutional revisions that emerge from a convention would be able to tackle multiple and disparate topics all at once, providing opportunities for delegates to package unpopular but necessary reforms with other more palatable changes.¹² In the same way that Congress builds a majority to pass important but unpopular legislation by pairing it with more fashionable proposals and earmarks for pivotal members in the form of “omnibus” packages, a constitutional convention could build a logroll that convinces Californians to take their constitutional medicine by combining it with provisions that offer something for every voter.¹³

The 1787 Philadelphia convention that drafted the Federal Constitution provides a canonical example of the logroll approach. To reach consensus on a new constitution, attendees at the Philadelphia convention had to build a package that would appeal to a large number of conflicting interests: advocates of expansive federal power versus supporters of state autonomy; the free North versus the slave South; small states versus big states; those in favor of a parliamentary form of government versus those insisting on an independent, directly elected president. The final compromises—the Electoral College; the three-fifths Compromise; representation based on population in the House but not in the Senate; explicit enumeration of Congressional powers combined with the “Necessary and Proper” Clause—are the stuff of history books. The important point is that many of these provisions would likely have been rejected by a majority of the states had they been considered separately, rather than being brought together in a single package subject to a simple up-or-down vote. Though every state may

12. See, e.g., Jim Wunderman, *Repair California—Only a Constitutional Convention Can Repair Damage to State*, SACRAMENTO BEE, June 28, 2009, at E1.

The second flawed route to reform is to use the initiative process. That won't work because California operates under a single-subject rule, meaning initiatives can only address one subject so they are easier for voters to understand, and so that voters can express a clear intent on a single issue. That means that to get the reforms we need, we would have Propositions A, B, C, D all the way to Z. That's a very, very expensive campaign, would be easy for special interests to pick off, and wouldn't provide the cohesive, holistic reform our state needs.

Id.

13. See R. DOUGLAS ARNOLD, *THE LOGIC OF CONGRESSIONAL ACTION* 88–118 (1990).

have disliked individual articles of the new constitution, they certainly preferred the document as a whole to the intolerable status quo under the dysfunctional Articles of Confederation and so voted in favor of ratification.

II. POISON PILL MODEL OF CONSTITUTIONAL REFORM

Implicit in the logroll model of reform is a particular theory of voter behavior. This is important because, in every state but Delaware, changes to the state constitution currently require approval of the electorate.¹⁴ This was not always the case. The Federal Constitution, for example, was ratified by special delegates attending conventions held specifically for this purpose. The majority of the original state constitutions also became effective without ever being submitted to the voters.¹⁵ Almost a century later, during the periods of Civil War and Reconstruction, at least five state constitutions were promulgated without a public vote—precisely because these documents addressed contentious political issues that their authors worried would not survive a popular referendum.¹⁶

In practice, voter behavior appears to diverge from the logroll model of reform in two important ways, both of which make building voter support for comprehensive reforms difficult. First, voters rarely enter the voting booths possessing full, encyclopedic knowledge of the issues on the ballot. Many voters instead rely on simple cognitive cues and information shortcuts—in particular, endorsements from prominent interest groups—to cast their ballots.¹⁷ This means that, even if delegates at a constitutional convention work carefully to give every group in the electorate a reason to vote in favor of the proposed changes, there is little guarantee that voters will actually know all the details when the revisions appear on the ballot. Second, voters do not appear to weigh the costs and benefits of various policy proposals in a risk-neutral manner, in the same way that an actuary might compare two courses of action by carefully adding up the risk and reward of each one. In studying the behavior of voters in initiative elections, political scientists Shaun Bowler and Todd Donovan have argued that many voters are fundamentally risk-averse, preferring to vote against ballot measures in the

14. COUNCIL OF STATE GOV'TS, *State Constitutions*, in BOOK OF THE STATES 2010, 13 (2010).

15. ALBERT L. STURM, THIRTY YEARS OF STATE CONSTITUTION-MAKING: 1938–1968, 10 (1970) [hereinafter THIRTY YEARS].

16. ALBERT L. STURM, *METHODS OF STATE CONSTITUTIONAL REFORM* 105 (1954).

17. Arthur Lupia, *Shortcuts Versus Encyclopedias: Information and Voting Behavior in California Insurance Reform Elections*, 88 AM. POL. SCI. REV. 63, 63–66 (1994).

face of controversy, uncertainty, or confusion.¹⁸ In short, given voter propensity to cast “defensive no” votes, a constitutional revision is likely to be only as popular as its least popular component.

Both types of cognitive biases present in mass voting behavior are likely to make it more difficult to pass comprehensive constitutional reforms. By expanding the scope of constitutional change, major revisions are more likely to unite small groups, each opposed to a particular provision, into a coalition of sufficient size to block the package of proposals. If each provision were considered separately by the voters, no group of opponents would be large enough to be decisive in the election. When these provisions are brought together in a logroll, however, the final package is more likely to contain enough “poison pills” to bring together a majority against their passage.

In the same way that the U.S. constitutional convention provides a vivid example of the logroll model of reform, the 1992 rejection by Canadian voters of the so-called “Charlottetown Accord” represents the poison pill model in action. By including concessions for every major interest group—increased autonomy for Quebec, support for aboriginal interests, reforms in the Senate to increase representation for the western territories—negotiators created what Canadian political scientist Richard Johnston has called “an inverted logroll,” a final package with enough compromises to offend every group in the electorate.

Negotiators hoped that by 1992 they had finally found an equilibrium, a logroll sufficiently inclusive to survive referral to the people. Instead they seem to have gotten the logic of the logroll upside down: they may have overestimated both how much each group wanted what it got and how intensely some groups opposed key concessions to others.¹⁹

III. THE PATH TOWARD PIECEMEAL REFORM

Which of the two models of reform described above, logrolls or poison pills, best captures the experience of the American states over the past five decades? In this section, I explore this question with the help of a new dataset, culled from annual summaries of state constitutional amendment and revision activity published by the Council of State Governments, which

18. SHAUN BOWLER & TODD DONOVAN, DEMANDING CHOICES: OPINION, VOTING, AND DIRECT DEMOCRACY 33–35, 69, 80 (1998); see also Daniel Kahneman & Amos Tversky, *Prospect Theory: An Analysis of Decision Under Risk*, 47 *ECONOMETRICA* 262 (1979).

19. Richard Johnston, *An Inverted Logroll: The Charlottetown Accord and the Referendum*, 26 *PS: POL. SCI. & POL.* 43, 43 (1993).

includes information on every constitutional convention,²⁰ and revision commission held since 1965.²¹ I focus on this period because it includes the most recent era of state constitutional reform, much of it motivated by the need to adopt new reapportionment procedures in the wake of the Supreme Court's one-man-one-vote decisions in the early 1960s.²²

For more than two centuries, the constitutional convention has served as one of the most important tools in the political development of state constitutions. In total, American states have convened more than 230 constitutional conventions.²³ As states began the process of revising their constitutions in the wake of the Court's rulings in the late 1960s, many turned to the constitutional convention as their forum of choice. Unfortunately, the early results proved to be disheartening. In 1967, New York voters rejected a new constitution drafted by a convention, and a year later, Maryland voters did the same. Within two years, new constitutions were also rejected in New Mexico and Arkansas.

Drawing on the experience of other states, the Indiana Constitutional Revision Commission in 1969 recommended that the state pursue reform via initiative, forgoing a constitutional convention:

The recent experience of other states choosing the convention route has not been encouraging The consensus of those states which have had failures seems to be that voter dislike of one or two provisions of the new draft resulted in the failure of the entire document. This is possible because in such cases the rewritten constitution generally is submitted to the voters as a whole. Disapproval by the majority of the voters of only one controversial provision therefore will result in the defeat of the entire document. Had the voters of these four states been able to vote separately on each controversial provision, the end result might have been different.²⁴

The experience of New York, in particular, provided an important cautionary tale for reformers. Though the convention was originally called to address the question of reapportionment, the final package of reforms approved (narrowly, among partisan lines) by the convention recommended

20. See *infra* Appendix Table 1.

21. See *infra* Appendix Table 2.

22. The discussion in this section is based on Vladimir Kogan, *Lessons from Recent State Constitutional Conventions*, 2 CAL. J. POL. & POLICY 1 (2010).

23. See *infra* Table 1.

24. 1 IND. CONSTITUTIONAL REVISION COMM'N, BIENNIAL REPORT TO THE INDIANA GENERAL ASSEMBLY 9 (1969).

reorganization of the executive branch, enhancement of environmental and consumer protections, and the elimination of the Blaine Amendment, which prohibited government aid to religious schools. The last proposal, which engendered strong anti-Catholic sentiment, proved to be particularly controversial, bringing about the defeat of the entire package of revisions.²⁵

Period	No. of Conventions
Prior to 1801	26
1801 to 1850	52
1851 to 1900	92
1901 to 1950	29
1951 to 1992	34

Source: Council of State Governments (various editions)

Constitutional reformers in other states responded to such high-profile failures in three complementary ways. First, as can be seen in Table 2, states worked increasingly to limit the scope of convention deliberations, explicitly enumerating in the convention calls what portions of the constitution would be up for revision. Table 3 suggests that limited conventions proved to be more palatable to voters, who approved them at a higher rate than unlimited convention calls. Second, convention delegates, appreciating the danger of including potential poison pills in the body of the final revisions, increasingly proposed reforms as a series of amendments instead of a unified package subject to single up-or-down-vote. In some cases, the conventions produced revised constitutions alongside other amendments that separately tackled the most controversial issues. In 1970, for example, the Illinois convention produced a new draft constitution that was easily ratified by voters. However, delegates also adopted four contentious amendments—changes to the electoral system used to choose legislators, abolition of the death penalty, end of direct election of judges, and the lowering of the minimum voting age—which appeared as independent questions on the ballot. Voters rejected all four amendments.²⁶

25. See Kogan, *supra* note 22, at 4, 11.

26. See *id.* at 4, 9.

Period	Unlimited Conventions	Limited Conventions	Total Conventions
1930–1949	5	3	8
1950–1969	13	9	22
1970–1981	5	5	10

Source: Council of State Governments (various editions)

Period	Unlimited Conventions		Limited Conventions		Total	
	Approved	Rejected	Approved	Rejected	Approved	Rejected
1930–1949	4	6	1	0	5	6
1950–1969	11	11	9	2	20	13
1970–1981	7	8	3	0	10	8

Source: Council of State Governments (various editions)

Third, in some states, reformers abandoned conventions altogether in favor of constitutional revision commissions.²⁷ Though such commissions had long served as research arms of state legislatures and as preparatory bodies for conventions, revision commissions increasingly replaced constitutional conventions as the primary pathway for comprehensive constitutional revision. After several constitutional revisions developed by such revision commissions were also rejected by the voters, commissions too began producing their final revisions in the form of a series of amendments rather than a single package.²⁸ Even this strategy, however, did not always prove effective against insulating revisions against particularly controversial proposals. In the late 1970s, for example, Florida voters rejected eight proposed constitutional revisions developed by that state's revision commission in an apparent display of their opposition to legalized gambling, an issue that appeared on the same ballot.

27. Albert L. Sturm, *The Development of American State Constitutions*, 12 *PUBLIUS: J. OF FEDERALISM* 57, 84–86 (1982).

28. Bernard L. Hyink, *California Revises Its Constitution*, 22 *W. POL. Q.* 637 (1969). "Proposition 1 overreaches itself in presenting too large a package embracing too many subjects to be decided by a single Yes or No vote." *Id.* at 651.

While the increased use of limited constitutional conventions and series of amendments, in place of a single package of revisions, greatly improved success of various constitutional reforms at the polls during the 1970s, these strategies also undercut the primary argument for using conventions and revision commissions instead of standalone constitutional amendments: the ability to pursue comprehensive, rather than incremental, reforms. Indeed, neither conventions nor revision commissions have proven particularly more effective in bringing about comprehensive changes than standalone constitutional amendments. When conventions and commissions have produced a number of separate recommended changes, voters have rarely ratified all of these bodies' recommendations, instead picking and choosing the ones that they like. In Utah, for example, voters ratified new constitutional articles dealing with the organization of the legislative branch and conduct of elections proposed by the state's constitutional revision commission in the 1970s, though they initially rejected two other articles dealing with the organization of the executive branch and public taxation. In addition, increasing state reliance on constitutional revision commissions—statutory, rather than constitutional, bodies whose recommendations do not reach the ballot without further legislative action in most states—has greatly limited the scope for radical reforms by effectively giving state legislators a veto over any proposed constitutional changes.²⁹

IV. THE IRONY OF COMPREHENSIVE REFORM

[C]ompromise is the essence of democratic decision-making, including revision of state constitutions. Purists seldom win public acceptance of their models. Writing a “model” or an “ideal” constitution is of little lasting value other than the education afforded in the process if the document finally is rejected. Progress in the development of American political institutions has been gradual; the voters tend to vote against radical changes that they do not understand. Successful reform efforts, therefore, usually must be attuned to the limits of tolerance in the electorate and careful assessment of the acceptable degree of change from the status quo. In constitution-writing few participants are completely satisfied with all provisions; what counts in the final analysis is achievement of the maximum amount of reform that is acceptable to the electorate, which finally decides.³⁰

29. Cain & Noll, *supra* note 3, at 1521, 1529.

30. THIRTY YEARS, *supra* note 15, at 102.

Long before amendments came to displace constitutional conventions and revision commissions as the primary method of constitutional evolution in the American states, incremental changes largely replaced efforts to carry out comprehensive reforms. As advocates of constitutional change came to realize that voter support often represented the most serious hurdle in the enactment of major constitutional revisions, they began to strategically limit the scope of revisions and the number of proposals that were combined in a single package for voter consideration. The great irony of state constitutional development is that, in an effort to win voter approval for broader constitutional revisions that went beyond standalone constitutional amendments, successful comprehensive reforms came to look a lot like the piecemeal amendments that these reforms were designed to avoid.

There is an important lesson in this irony for today's constitutional reformers, including good-government advocates in states like California and New York. While many states have used both constitutional conventions and revision commissions to make significant changes to their governing documents, these processes have not always led to substantive reforms. Both conventions and commissions have failed when their proceedings have been hijacked by advocates of broad reforms on issues for which there existed little consensus in the mass public. Conventions and commissions, in other words, appear to be effective tools for translating public opinion into institutional change, but do not serve as effective forums for building compromises on issues where opinion remains sharply divided. In California, where voters believe that the status quo is unacceptable but agree on little else, history suggests that holding a convention will, by itself, do little to address the state's structural problems.

Appendix 1. State Constitutional Conventions Since 1965						
Year	State	Convention Initiator	Type	Number of Delegates	Delegate Selection	Outcome
2004	British Columbia	Convened by provincial government.	Limited	160	Delegates selected via stratified lottery, with one man and one woman for each electoral districts and two Aboriginal members. Interested residents self-selected into lottery pool after winning earlier stage of lottery.	Voters twice rejected new constitution (required super-majority).
1992	Louisiana	Convened by state legislature.	Limited	Unknown	State legislature convened as bicameral constitutional convention.	Voters rejected amendment adopted by convention.
1986	Rhode Island	Legislative call for convention approved by voters.	Unlimited	100	Delegates chosen in nonpartisan election, one from each lower house district.	Voters ratified eight of fourteen proposals adopted by convention (some included more than one amendment).
1984	New Hampshire	Legislative call for convention approved by voters.	Unlimited	400	Delegates chosen in nonpartisan election, one from each lower house district.	Voters ratified six of ten amendments adopted by convention.
1978–1980	Arkansas	Legislative call for convention approved by voters.	Unlimited	100	Delegates chosen in nonpartisan election, one from each lower house district.	Voters ratified ten of twenty-seven amendments adopted by convention.
1978	Hawaii	Legislative call for convention approved by voters.	Unlimited	102	Two delegates chosen from each state legislative district in nonpartisan election.	Voters ratified all amendments adopted by convention.
1977	Tennessee	Legislative call for convention approved by voters.	Limited	99	Delegates chosen in nonpartisan election, one from each lower house district.	Voters ratified twelve of thirteen proposed amendments adopted by convention.

Appendix 1. State Constitutional Conventions Since 1965						
Year	State	Convention Initiator	Type	Number of Delegates	Delegate Selection	Outcome
1974	Texas	Legislative call for convention approved by voters.	Limited	181	State legislature convened as constitutional convention.	Convention failed to agree on amendments. Eight of failed proposals subsequently rejected by voters.
1974	New Hampshire	Legislative call for convention approved by voters.	Unlimited	400	Delegates chosen in nonpartisan election, one from each lower house district.	Voters ratified two of six amendments adopted by convention.
1973	Rhode Island	Voters approve one of five subjects proposed for amendment by legislature.	Limited	100	Delegates chosen in partisan elections, two from each upper house district.	Voters ratified five of seven amendments adopted by convention.
1973–1974	Louisiana	Convened by legislature.	Limited	132	Delegates chosen in nonpartisan election, one from each lower house district. Governor appoints twenty-seven delegates (twelve representing specific interest groups, the rest as at-large delegates).	New constitution ratified by voters.
1971	Tennessee	Voters approve one of five subjects proposed for amendment by legislature.	Limited	99	Delegates chosen from existing Congressional districts in non-partisan elections.	Unknown
1971–1972	North Dakota	Legislative call for convention approved by voters.	Unlimited	99	Nominating commission consisting of Governor, Lt. Governor, and Attorney General nominated a slate consisting of one convention delegate for each position in the lower house. An additional 141 candidates filed by petition. Delegates chosen in non-partisan election.	Voters rejected new constitution and several accompanying propositions.
1971–1972	Montana	Legislative call for convention approved by voters.	Unlimited	100	Delegates from each Congressional district elected in partisan elections.	Voters ratified new constitution and several accompanying propositions.

Appendix 1. State Constitutional Conventions Since 1965						
Year	State	Convention Initiator	Type	Number of Delegates	Delegate Selection	Outcome
1969–1970	Illinois	Legislative call for convention approved by voters.	Unlimited	116	Delegates chosen in nonpartisan elections, two from each upper house district.	Voters ratified new constitution but rejected four contentious proposals that were presented separately as accompanying propositions.
1969–1970	Arkansas	Legislative call for convention approved by voters.	Unlimited	100	Delegates chosen in same election as the convention call.	Voters rejected proposed constitution.
1969	New Mexico	Convention proposed by Constitution Revision Commission and approved by voters.	Unlimited	70	Delegates chosen through nonpartisan election.	Voters rejected proposed constitution.
1968–1968	Hawaii	Legislative call for convention—issued under pressure from federal courts—approved by voters.	Unlimited	82	Delegates chosen through nonpartisan election.	Voters ratified all but one proposed amendments (could vote for whole package, or individual components).
1967–1968	Pennsylvania	Legislative call for convention approved by voters.	Unlimited	150	Delegates chosen through partisan elections in multi-member districts (using existing legislative districts). Two major parties nominated two candidates each, with voters electing three delegates total from each district. Thirteen additional ex-officio delegates included six legislative officers from each party and Lt. Governor.	Voters ratified revisions adopted by the convention.
1967–1968	Maryland	Plans for convention developed by a Constitutional Convention Commission, established by executive order,	Unlimited	142	Delegates chosen through nonpartisan elections in multi-member districts.	Voters rejected proposed constitution.

Appendix 1. State Constitutional Conventions Since 1965						
Year	State	Convention Initiator	Type	Number of Delegates	Delegate Selection	Outcome
		and approved by voters.				
1967	New York	Legislative call for convention approved by voters.	Unlimited	186	Delegates chosen through partisan elections in multi-member districts (used existing legislative district boundaries). An additional fifteen were elected in partisan, at-large elections.	Voters rejected proposed constitution.
1966	New Hampshire	Legislative call for convention—issued under pressure from federal courts—approved by voters.	Unknown	Unknown	Unknown	Unknown
1966	New Jersey	Legislature convenes convention to meet reapportionment deadline set by federal courts.	Unknown	112	Delegates elected under weighted-voting system with seats distributed among counties on basis of population. No one party was allowed to elect more than half of the delegates from any one county.	Voters ratified amendments adopted by convention.
1965	Tennessee	Legislature convenes convention to meet reapportionment deadline set by federal courts.	Unknown	Unknown	Delegates elected by voters.	Unknown
1965–1965	Connecticut	Legislature convenes convention to meet reapportionment deadline set by federal courts.	Unknown	84	Delegates elected by voters (equally divided between two main parties).	New constitution ratified by voters.
1964–1969	Rhode Island	Legislative call for convention approved by voters.	Unlimited	100	Delegates chosen through partisan elections in single-member districts.	Voters rejected proposed constitution.
Source: Council of State Governments (various editions)						

Appendix 2. State Constitutional Revision Commissions Since 1965				
Year	State	Number of Delegates	Delegate Selection	Outcome
2003	Alabama	35	Appointed by governor. Includes constitutional law experts, former public officers, educators, business and civic leaders.	Recommended five substantive amendments to the constitution, which were introduced in legislature. One amendment, removing racist references in the constitution, was rejected by voters.
1997–1998	Florida	37	Fifteen members appointed by Governor; nine by Speaker of the House; nine by President of Senate; three by Chief Justice of Supreme Court (with advice of other justices). Attorney general served as <i>ex officio</i> member.	Commission recommended thirty-three constitutional amendments, eight of which were ratified by the voters.
1995–1997	Nebraska	12	Three appointed by governor; three by Supreme Court; six by legislature, including three current legislators. Representation from each congressional district required.	Final report included thirty-two recommended constitutional changes with twenty-eight amendments ready for referral to voters. Legislature placed eight of these amendments on the ballot.
1995	Arkansas	31	Governor appointed twenty-four attorneys, four experts on English and editing, a retired Chief Justice of state Supreme Court, and governor's chief legal counsel.	Prepared working draft of new constitution and recommended constitutional convention, though a convention call was defeated in a referendum in 1995.
1994–1997	California	23	Ten appointed by Governor; five appointed by Speaker of the lower house; five appointed by Senate Rules Committee. Bipartisan appointments required. <i>Ex officio</i> members: Chief Justice, legislative analyst, and director of finance.	Recommended major revisions to the constitution, which were not taken up by the Legislature.

Appendix 2. State Constitutional Revision Commissions Since 1965				
Year	State	Number of Delegates	Delegate Selection	Outcome
1993–1995	New Mexico	21	Fifteen appointed by Governor, five from each congressional district. No more than eight from same party. Six nonvoting advisory members: two appointed by Speaker of lower house; two Senators appointed by President Pro Tem of Senate; Chief Justice or designee; Attorney General or designee.	In 1996, voters ratified two commission amendments as modified by Legislature.
1993–1995	Alaska	5	Speaker of the House appointed three Representatives and two public members.	Recommended permanent commission to study constitutional revision and some other changes. No legislative action taken on recommendations.
1993–1995	New York	18	Appointed by Governor.	Prepared various reports and held public outreach efforts.
1990–1993	Florida	29	Eleven appointed by Governor; seven appointed by Speaker of the House; seven appointed by President of Senate. Four non-voting legislative members: one member of majority party and one member of minority party appointed by Speaker of lower house; one member of majority party and one member of minority party appointed by President of the Senate.	Recommended four proposed constitutional amendments for voter consideration. One was removed by Florida Supreme Court because of violation of statutory requirements on clarity of ballot language. Voters ratified two of three remaining amendments, including comprehensive changes to budgeting and planning and a directive to the Legislature to adopt a “Taxpayers’ Bill of Rights.” Voters rejected measure to allow city and county governments to levy sales taxes, subject to voter approval.

Appendix 2. State Constitutional Revision Commissions Since 1965				
Year	State	Number of Delegates	Delegate Selection	Outcome
1988–1990	Oklahoma	32	Three legislators and other state and local officials; representatives of business, law, agriculture, energy, education. Governor and U.S. senator as honorary co-chairs.	Changes were privately qualified for the battle as three initiatives, though two were taken off the ballot by the Oklahoma Supreme Court for violating the single-subject rule. Voters ratified amendment dealing with the ethics commission.
1987–1988	Kentucky	41	All members appointed by Speaker of lower house and President Pro Tem of the Senate: fourteen citizens; three representatives of the media; three representatives of business; three representatives of labor; two mayors; two county executives; two Representatives from lower house of Legislature (bipartisan); two state Senators (bipartisan). Deans of three law schools appointed one faculty member from each school; Chief Justice appointed three judges, one from each level of courts.	Commission brought forward seventy-seven recommendations for revision. Only one, dealing with the lottery, was adopted by the legislature and subsequently ratified by the voters.
1985	Mississippi	362	Members invited by the Governor to be widely representative of all branches of government, both state and local, and of social, economic, professional, and political organizations.	Commission drafted a proposed constitution, which the Governor forwarded to Legislature. The proposal was rejected in the lower house.

Appendix 2. State Constitutional Revision Commissions Since 1965				
Year	State	Number of Delegates	Delegate Selection	Outcome
1983–1984	New Hampshire	10	Three appointed by Speaker of the House; three appointed by President of the Senate; two appointed by Governor; two appointed by state Supreme Court.	Submitted report to constitutional convention.
1983	Rhode Island	13	Four Representatives from lower house appointed by Speaker; three Senators appointed by Majority Leader of the Senate; six public members appointed by Majority Leaders (two each) and Minority Leader (one each) of each house.	Recommended calling a constitutional convention.
1979–1980	Alaska	2 (later 7)	One Representative from lower house; one Senator.	Made preparations for constitutional convention.
1977–1982	Georgia	11	Included Governor; Lt. Governor; Speaker of the House; Chief Justice of State Supreme Court; Chief Judge of State Court of Appeals; Attorney General, Chairman of Senate Judiciary Committee; Chairman of House Judiciary Committee; trial judge appointed by Judicial Council; President Pro Tem of Senate; Speaker Pro Tem of House.	Voters rejected revisions of two proposed articles in 1978. Legislature approved new proposed constitution, which was ratified, which was ratified by voters in 1982.
1978	Alabama	22	Appointed by Governor. Included Chief Justice of state Supreme Court, Speaker of the House, Lt. Governor, Pres Pro Tem of Senate.	Proposed constitution was defeated in the Legislature.
1978	Arkansas	5	Appointed jointly by Governor and Secretary of State.	Prepared for constitutional convention.

Appendix 2. State Constitutional Revision Commissions Since 1965				
Year	State	Number of Delegates	Delegate Selection	Outcome
1978	Kentucky	27 (only 24 agreed to serve)	Included four Representatives from lower house; two Senators; Chief Justice of Supreme Court; Lt. Governor; sixteen citizens.	Commission held two meetings, but then became inactive and made no recommendations.
1977–1978	Florida	37	Fifteen appointed by Governor; nine appointed by Speaker, nine appointed by President Pro Tem of the Senate; three appointed by Chief Justice of state Supreme Court. Attorney General served as <i>ex officio</i> member.	Recommended eight revisions to the constitution. All eight were rejected by the voters.
1975–1977	North Dakota	14	Appointed by Legislative Council, with three members from lower house of Legislature, six members from the Senate, and five citizens.	Unknown
1975–1976	Washington	60	Five appointed by Speaker of the House (all from lower house); fifty-five appointed by governor (five Senators and fifty citizens).	Recommended call for constitutional convention, which was unsuccessful.
1973–1974	New Hampshire	10	Two appointed by Speaker of the House; two appointed by President of the Senate; three appointed by Governor; three appointed by state Supreme Court.	Proposed changes submitted to constitutional convention.
1973–1974	Texas	37	Appointed by an Appointment Committee composed of Governor, Lt. Governor, Attorney General, Speaker of the House, Chief Justice of state Supreme Court, and presiding judge of Court of	Submitted recommendations to constitutional convention.

Appendix 2. State Constitutional Revision Commissions Since 1965				
Year	State	Number of Delegates	Delegate Selection	Outcome
			Criminal Appeals.	
1971–1973	Minnesota	21	Six appointed by Speaker of the House; six appointed by Senate Committee on Committees; one appointed by Chief Justice; eight appointed by Governor.	Unknown
1970–1972	Louisiana	48	Two <i>ex officio</i> members; Lt. Governor; twenty-seven legislators, fourteen of whom were elected by legislative delegates; eighteen citizens appointed by specified organizations.	Unknown
1969–2004	Utah	16	Nine appointed to select six additional members (limits on representation from one party); one <i>ex officio</i> member.	Voters ratified recommended revisions dealing with legislative organization and elections but rejected recommended revisions dealing with organization of executive branch and taxation. Other recommended changes ratified by voters throughout 1980s and 1990s, though in 1988, the legislature rejected major proposed revisions to the article on local government and debt.
1969–1979	Ohio	32	Twenty members designated by twelve appointed General Assembly members.	Recommended various changes to the constitution, thirteen of which were ratified by the voters.
1969–1976	Alabama	21 (later increased to 25, then 27)	Two <i>ex officio</i> members and nineteen appointed members, with at least two representatives from each congressional district.	Recommended changes in five areas of constitution. One revised article, dealing with judicial organization, was approved by the legislature and ratified by voters.
1969–1976	South Dakota	13	Two <i>ex officio</i> members and eleven appointed members (limit on representation from one party).	One commission proposal was rejected by voters in November 1970. Voters subsequently ratified five new articles.

Appendix 2. State Constitutional Revision Commissions Since 1965				
Year	State	Number of Delegates	Delegate Selection	Outcome
1969–1971	Montana	16	Appointed, maximum eight from one party.	Recommended constitutional convention, drafted a proposed constitution, and conducted information campaign for convention.
1969–1970	Illinois	28	Appointed.	Offered recommendations to newly convened constitutional convention.
1969–1970	Nebraska	12	Appointed, require representation from each congressional district.	Voters approved substantial changes over the course of three general elections. Commission submitted final changes and recommended that they be “treated in a unified manner.”
1969	Georgia	25	Five <i>ex officio</i> members, including Governor who served as chairman, and twenty appointed members.	Recommended complete revision and submitted new constitution.
1969	Oklahoma	21	Eleven appointed Legislators and ten representatives of public (requiring one from each congressional district).	Unknown
1968–1969	Kansas	12	Appointed.	Submitted series of extensive changes to legislature.
1968–1969	Washington	20	Appointed by governor. Two <i>ex officio</i> members.	Recommended phased process of reform and recommended “gateway amendment.” Final report recommended eight revised articles. No action taken by Legislature.
1968	North Carolina	25	Appointed by joint steering committee of North Carolina State Bar and North Carolina Bar Association.	Recommended extensive revision and ten proposed amendments. Legislature sent one revision and four amendments to ballot. Voters ratified new constitution and all but one of proposed amendments.
1968	Oklahoma	15	Appointed, plus thirty non-voting advisory members (minimum of two from each congressional	Lower house of Legislature adopted proposed revisions.

Appendix 2. State Constitutional Revision Commissions Since 1965				
Year	State	Number of Delegates	Delegate Selection	Outcome
			district).	
1967–1972	Indiana	34 (later reconstituted with 29)	Appointed.	Voters ratified thirty of fifty-eight commission proposals.
1967–1970	Delaware	15	Appointed, with guaranteed representation for counties and city of Wilmington.	Recommended a new revised constitution.
1967–1969	Illinois	26	Appointed, with no more than thirteen members from the same political party.	Recommended that commission be continued.
1967–1968	Texas	25	Appointed.	Recommended revised constitution. No action taken by Legislature.
1967	Arkansas	30	Appointed by Governor, Speaker of the House, President of Senate, Chief Justice of state Supreme Court, and president of Bar Association.	Recommended call for constitutional convention, which voters approved in 1968.
1967	Texas	25	Ten appointed by Governor; five appointed by Lt. Governor; five appointed by Speaker of the House; five appointed by Chief Justice.	
1966–1969	South Carolina	12	Two <i>ex officio</i> members and ten appointed members.	Sent draft constitution to legislature, which forwarded it to voters. Voters ratified first and second sets of amendments.
1966–1967	Washington	9	Nine voting members and three non-voting academics.	Commission recommended further study.
1965–1970	Idaho	15	Five appointed by Governor, five appointed by Chief Justice of state Supreme Court; five appointed by Legislative Council.	New constitution, as amended by legislature, was rejected by voters.

Appendix 2. State Constitutional Revision Commissions Since 1965				
Year	State	Number of Delegates	Delegate Selection	Outcome
1965–1967	Florida	37	Attorney General; thirty-six others appointed by Chief Justice of state Supreme Court, Governor, presiding officers of the Legislature; president of Florida Bar Association.	Legislature adjourns without acting on commission recommendation. New constitution eventually ratified by voters in 1969.
1965–1967	Wisconsin	Unknown	Unknown	Voters ratified eight amendments; legislature did not submit three others to the electorate.
1963–1969	New Mexico	11	Appointed by Governor, one from each judicial district and maximum of 7 from the same political party.	Recommended calling convention and prepared draft of constitution.
1963–1967	Pennsylvania	33	Appointed by governor.	Eight of twelve recommended constitutional amendments adopted on same day voters called a constitutional convention.
1963–1966	California	60	Appointed members, with Joint Committee on Legislative Organization serving as <i>ex officio</i> members.	Voters ratified first phase of revisions in 1966, but rejected second phase of revisions in 1968. Second phase amendments were resubmitted to the electorate, and one of four was subsequently ratified.
1963–1965	Georgia	28	Legislative leaders; judges; state, county, and local officials; fourteen public members representing varied interests such as education, labor, business and industry, communication, and agriculture. All appointed by Governor, who also served as chairman.	New constitution submitted to legislature.
1964	Kentucky	50	Seven former governors; twenty-five lawyers; four bankers; four current and former Senators. Thirty-three Democrats and	Voters rejected recommended revision.

Appendix 2. State Constitutional Revision Commissions Since 1965				
Year	State	Number of Delegates	Delegate Selection	Outcome
			seventeen Republicans.	
1964	Nebraska	9	Three from each congressional district.	Repeated recommendations from previous 1950 commission to remove obsolete provisions.
1963	North Dakota	Unknown	Legislative Research Committee.	Legislature submitted all of the recommendations except for changes dealing with executive reorganization to voters, who rejected them at the polls.
1958–1971	Vermont	11	Appointed by governor.	Interim report called for limited constitutional convention, which was rejected by voters. Proposed revised constitution which was approved by legislature. Second legislative vote invalidated by Supreme Court because of failure to follow proper procedures.
Source: Council of State Governments (various editions)				