

Very Important: Please Read  
In Solidarity,  
Mike...

ARTICLE V

Officers And Civil Departments

[Membership in retirement systems; benefits not to be diminished nor impaired]

§7. After July first, nineteen hundred forty, membership in any pension or retirement system of the state or of a civil division thereof shall be a contractual relationship, the benefits of which shall not be diminished or impaired. (New. Adopted by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

A state constitutional convention could alter or remove this clause.

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The New York State Constitutional Convention

*from Michael J. Palladino, DEA President*

There is a push by some political factions in New York State to hold a new Constitutional Convention. The position of the Detectives' Endowment Association is "**vote NO**" on this referendum.

Not only would a Constitutional Convention needlessly cost the New York State taxpayers an estimated \$100-million, but it could jeopardize the current level of pension benefits already received by retirees and promised to active members. Public sector pensions are guaranteed against diminution thanks to powerful language present in the New York State Constitution. In the event of a Constitutional Convention, the language could be tampered with, thus eliminating that guarantee and paving the way for a reduced pension benefit.

A Convention may open up New York's Constitution to hastily thought out changes and reversal of laws and protections that in some cases took more than 200 years to put into effect; and for police, benefits that took *decades* to achieve.

A referendum whether or not to engage in a Constitutional Convention will be on the ballot for voters in the next election, November 7, 2017. The DEA urges you to vote **NO**.

The Purpose of the Referendum

The unique democratic purpose of New York's periodic Constitutional Convention referendum is to implement New Yorkers' inalienable right to alter their Constitution in cases where the interests of the Legislature and The People conflict. New York's Constitution allows the people to exercise this right once every 20 years. To realize this democratic purpose, a Convention must be substantially independent of the Legislature's control. For example, New York's Constitution prohibits the Legislature from directly limiting a Convention's agenda. The agenda is placed in the hands of the people independently of the Legislature. Democratic accountability is primarily sought by granting the people three votes over the process:

To call Convention;

To elect Delegates to a Convention; and

To ratify any Amendments a Convention might propose for their consideration.

The people cannot ratify any constitutional change in conflict with federal law, including the U.S. Constitution.

2017 Constitutional Convention Milestones

On November 7, 2017 ... a popular vote on the Constitutional Convention referendum takes place.

On November 6, 2018 ... there will be a popular vote for Constitutional Convention Delegates. Three (3) Delegates will be elected to each of the 63 Senate Districts (189), plus 15 additional Delegates statewide (total 204).

.April 2, 2019 ... a Constitutional Convention convenes.

November 5, 2019 ... a popular vote on the Constitutional Convention recommendations.

January 1, 2020...any changes that the voters approve take effect.

Again, it is the position of the Detectives' Endowment Association, Inc. that a New York State Constitutional Convention is both unnecessary and dangerous to our collective bargaining rights, our pensions, our Defined Benefit plan (VSF), and to the level of our health benefits and other labor rights that we have achieved in New York State.

The People of the State of New York already have a 365-days-per-year process to amend and rectify our State Constitution with the daily, weekly, monthly, and annual legislative process. The People elect their own representatives locally, and to the New York State Senate and the New York State Assembly, and in turn these representatives make and amend State law as needed by The People. This is an ongoing process which allows for thoughtful and productive examination of the existing laws enumerated in the Constitution at all times; and it is a completely unnecessary risk and expense to engage in any additional process which may undo the hard won benefits, laws, rules, and regulations of the State of New York, which, in some cases, took us personally decades to achieve.

The last Constitutional Convention took place in 1967. Clearly, there has not been a real need in 50 years for another. But today there are loud and powerful voices looking to scapegoat public sector workers and their benefit gains, and consequently, we are facing serious risk of having our labor rights and benefits significantly diminished.

Therefore, we urge our members to vote **NO** when and if the Constitutional Convention is placed on the ballot in November of 2017. There are much better ways in which \$100-million or so of our tax dollars may be spent

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There has been an argument made that the US Constitution would prevent the States or localities from retroactively diminishing pensions. In particular those advancing this argument refer to

Article I, section 10, clause 1. It states:

No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.

This argument has NOT been tested in court and there is no case law pertaining to it in regards to pension obligations. Federal Bankruptcy laws *do* provide for the impairment of contracts when they allow reduced payments to creditors. We almost found out in the Detroit Bankruptcy case, but an agreement was reached *prior* to any decision by the courts.

The safest, surest way to keep all public sector pensions in NYS safe (for at least until 2037) is to defeat the Con-Con question.

The fight to defeat the con-con will be in the political arena. The fight will be *led* by the various umbrella groups representing organized labor in NYS, including, but not limited to, the NYS AFL-CIO, NYC's CLC, the NYSPFFA and all of the local unions (including the UFA and UFOA).

Like almost all wars, this one will be won or lost by the troops in the trenches. **When YOUR union asks for volunteers to fight, step up!**

There has always been plenty to divide us, this issue has the potential to be a real unifier as we all have skin in the *same side* of the game. If you belong to one of the many fraternal or sororal FDNY organizations, please start to talk up the issue of the con-con to prepare everyone to be willing to fight.