

LWVIL GOVERNMENT POSITION: CONSTITUTIONAL IMPLEMENTATION AND AMENDMENTS

Support for League positions to implement, amend and uphold the 1970 Illinois Constitution.

Position in Brief: The League supports implementation of provisions for governmental change in the Local Government Article, and amendments to achieve merit selection of judges, the indirect statutory initiative and the recall of elected judges. The League maintains its support for positions already achieved in the Constitution but which may require effort to preserve.

CONSTITUTIONAL IMPLEMENTATION AND AMENDMENTS (1977, 1980, 1981, 1988, 1998 and 2003): The League supports the following:

- Implementation of the constitutional mandate to the legislature to provide an orderly transfer process when units of government are dissolved or their structure or boundaries are changed.
- An appointed State Board of Education with authority to name the state superintendent of education.
- Flexible annual sessions of the legislature.
- A revenue article with as little restrictive detail as possible, and which does not contain limitations on tax rates or bonding power and does not prohibit any particular tax.
- A graduated income tax.
- Constitutional initiative for the legislative article.
- Compulsory referendum for constitutional amendments.
- Merit selection of judges, with provision for public financing at Supreme and Appellate Court levels.
- Recall of elected judges.

The League supports indirect statutory and constitutional initiative, a process by which citizens can petition for enactment of a law or the passage of a constitutional amendment by the legislature. If the legislature fails to act within a specified time, the proposed law or amendment is placed on the ballot at the next election. (This is in contrast to direct statutory and constitutional initiatives that bypass the legislature. After petitions have received the required number of signatures and are deemed valid, the question is placed on the ballot.)

In addition, the League opposes constitutional amendments to provide for optional, compulsory or advisory referenda for statutes initiated by the legislature. The League supports statutory provisions requiring that those who pass and sign petitions be registered voters, and opposes requiring a representative geographical distribution of signers or petitions. (Note: In 1999, the US Supreme Court invalidated Colorado's requirement that referenda circulators be registered voters. In response to these rulings, the Illinois General Assembly changed the Illinois Election Code in 2001. Illinois law now conforms to the Federal Constitutional voting requirements that circulators be at

least 18 years old and a United States citizen. (This change in the Election Code essentially voids the LWVIL position that petition passers and signers be registered voters.)

The League supports merit selection as the ideal method to appoint judges to the courts in Illinois. Since 2003, in light of a longtime League goal of limiting political influence in the selection of judges, the escalating cost of judicial races and slow progress towards the goals of merit selection, the League also has advocated working for public financing of judicial elections at the Supreme Court and Appellate Court levels.

Background Ratification of the 1970 Constitution was the culmination of almost thirty years of League effort to repair or replace the Constitution of 1870. Much of the credit for passage of a resolution by the General Assembly in 1967 to call a Constitutional Convention can be attributed to the work of the Constitutional Study Commission chaired by Representative Marjorie Pebworth, LWVIL President, 1961-63.

Beginning in 1967, the League embarked on an all-out campaign to convince the electorate of the need for a new constitution. The 1969 LWVIL Convention directed a study on constitutional revision. The League rose to the challenge and within a remarkably short time completed in-depth studies leading to:

- Positions on the executive, legislative, apportionment, cumulative voting, amending process and suffrage.
- Position on local government.
- Reaffirmation of the 1949 judicial position, which had been the basis for modernizing the courts in 1963.

These positions, along with existing positions on education, revenue, environment and human rights, enabled the League to testify on each article of the proposed Constitution. League observers or lobbyists covered all sessions of the Constitutional Convention, and most of the committee hearings.

At a statewide meeting in 1970, the League gave its approval to the work of the Constitutional Convention. Again an all-out campaign was waged for ratification of the proposed constitution and two of the four separate submission items: merit selection of judges and single-member districts, neither of which passed.

Early League efforts to implement the 1970 Constitution were directed toward the Local Government Article in order to strengthen county and municipal government, encourage intergovernmental cooperation, and eliminate townships or restrict their powers. The League voted to drop the local government item from the state program in 1977 because of successes in the first two areas and the unlikelihood of abolishing township government since townships had been included in the federal Revenue Sharing Program, now eliminated. Local Leagues, however, may work for the dissolution of special districts and/or the elimination of specific townships following local study.

The 1973 LWVIL Convention adopted the constitutional item to incorporate the unfinished business of implementing and amending the Constitution.

The 1979 LWWIL Convention adopted a study of the process of public initiative, referendum and recall for Illinois. Positions reached in this study are now a part of this item.

The 1987 LWWIL Convention adopted a study of the need for a Constitutional Convention with direction that it be completed in time for the League to play a role in affecting the outcome of the November 1988 referendum on the issue. Members concluded overwhelmingly that a Constitutional Convention was not needed at that time.

The League's 1969 position (reaffirmed in 1979) on reducing the size of the legislature with single-member districts and eliminating cumulative voting was implemented in 1980 with the passage of the cutback amendment. This position was dropped in 1989 because it had been achieved.

The 1999 LWWIL Convention adopted a study of cumulative voting, contingent on available funding. Cumulative voting was a component of the Election Systems Study (1999-2002). In responding to the Election Systems questionnaire submitted to them, League members did not support a return to cumulative voting.

The League has been a strong advocate for merit selection of judges, working over the years for a merit selection amendment. The legislature has failed thus far to place the issue on the ballot. In October 2000, the LWWIL Board reaffirmed the merit selection position, choosing not to support public financing as an incremental step toward achieving merit selection.

However, at the 2001 LWWIL Convention, a Will of the Convention Motion directed the LWWIL Board to reexamine the merit selection position to determine "a plan of action for implementation of the position in the current political environment." Convention delegates wanted to know if the original study allowed for incremental steps to ensure an independent judiciary.

A review of League history and action dealing with merit selection of judges revealed that between 1967 and 1986 the League had supported a number of different combination "local option" and mandatory merit selection proposals. LWWIL supported the local option proposals as the "only politically realistic way to go." Based on this review, the Board concluded, and the 2003 LWWIL Convention concurred, that support for public financing of judicial elections was in keeping with the position's goals, particularly in light of the escalating costs of judicial races and slow progress towards the goals of merit selection.

The League continues to support the enactment of legislation to provide a process for the orderly transfer of power when units of government are dissolved or their structure or boundaries are changed. Lack of such enabling legislation has been a major obstacle to local decisions to change the structure of government.

The League strongly supports provisions in the 1970 Constitution that allow certain local governments to adopt home rule. The League opposes any attempt to restrict this option. Although the LWWIL position supports the home rule provision in the constitution, a local League must complete a local study if members want to take a position on the question of home rule for their own community.

The 2007 LWWIL Convention adopted a study of the need for a State Constitutional Convention. The question of whether a convention should be held would be on the November 2008 ballot. LWWIL formed a Study Committee which studied the issue and prepared materials that the local Leagues used when holding consensus meetings. Thirty-one local Leagues held consensus meetings using the Study Guide. Twenty-seven opposed holding a convention and four were undecided. The LWWIL Board voted to adopt a position opposing the call to convention. Reasons for opposing the call to convention included:

1. The risk of exposing the entire constitution to revision and possible loss of the gains made in the 1970 constitution.
2. The cost of the convention.
3. Relative ease of the amendment process with the 1970 Constitution.
4. Concern about the influence of special interest groups in both delegate selection and the convention discussions.
5. Concern about the delegate election process.
6. Risk that the current dysfunction in state government would extend to the convention, since the General Assembly would set the parameters for the election of delegates as well as the budget for the convention.
7. Education of the public on the issues was lacking.
8. Many of the changes that citizens were requesting were available legislatively.

On November 4, 2008, the call to convention was defeated. The Associated Press reported that with 99% of the precincts counted:

NO 2,671,635 (58%)
YES 1,924,165 (42%)

LWWIL action

- Protected the League's position for an appointed State Board of Education with authority to appoint a State Superintendent by opposing attempts to abolish the Board, elect Board members or elect the Superintendent.
- Opposed proposals to restrict the consideration of appropriations and substantive legislation to single sessions of the legislature.
- Opposed efforts to make the Revenue article more restrictive.
- For action on a graduated income tax, see LWWIL State Fiscal Policies position, page 42.
- Opposed efforts to abolish judicial retention, a system by which a sitting judge runs on a nonpartisan ballot on his or her record only.
- Successfully supported an amendment on the November 1998 ballot calling for the appointment of two citizen members to the Courts Commission. A commission with authority to discipline judges was part of the League's position on the Constitution in 1970.
- Played a leadership role in coordinating opposition to a proposed constitutional amendment scheduled to appear on the November 1990 ballot. The Tax Accountability Amendment sought to require a three-fifths vote of the General Assembly to increase taxes. In the belief that the proposal went beyond the limited citizen initiative allowed under the Constitution and was contrary to the principles of responsible fiscal policy, the LWWIL formed a coalition which filed an *amicus* brief in the successful legal challenge to the amendment. The League successfully opposed

an effort in the state legislature to approve a similar constitutional amendment for the November 1996 ballot.

- Undertook a vigorous campaign to defeat the referendum for a Constitutional Convention on the November 1988 ballot, joining the Committee to Preserve the Illinois Constitution and participating extensively at both the state and local levels in urging a No vote on Con-Con. The League's efforts were successful, with voters rejecting the Constitutional Convention call by a 2-1 margin.
- In 2008, undertook another vigorous campaign to defeat the referendum for a Constitutional Convention on the November 2008 ballot. LWVIL joined a coalition called the Alliance to Protect the Illinois Constitution and participated in strategy meetings, a press conference, and meetings with the editorial boards of the Chicago Tribune, Pioneer Press, and the Daily Herald. LWVIL President Paula Lawson appeared on television on ABC 7 News Views and WTTW's Chicago Tonight. League members representing the League position participated in radio interviews in Rockford, Peoria, and McDonough County and were participants in panel discussions at public meetings around the state. Editorial pieces written by local Leagues appeared in local newspapers and the Chicago Tribune.

For action on constitutional proposals made under other LWVIL positions, see:

Term Limits (State Election Laws, pg. 35)

School Finance (Schools, pg. 28)

Right to bail (Criminal Justice, pg. 18)

Laws protecting children (Children's Services, pg. 66)