

Bi-Partisan Preparatory Commission for a Constitutional Convention

August 7, 2014

Testimony by Beverly Clay

Advisory Committee member of RhodeIslandConCon.info

I have collected information on Rhode Island Constitutional Conventions for more than 20 years because I believe that the state constitutional convention plays a vital role of checks & balances in Rhode Island's Constitution. I was the research director for 17 years with Operation Clean Government, having retired from the group in 2011. I am currently a member of the Advisory Committee of RhodeIslandConCon.info, authored and administrated by J. H. Snider. He and I have recently co-authored two opinion pieces on Constitutional Conventions in the Providence Journal.

I would like to address the proceedings of your Commission hearings.

1. Reasonable Public Notice is needed. Your first Commission hearing was posted on the General Assembly website just 48 hours prior to the meeting on July 31, the minimum required by the open meetings law. Today's meeting was posted on the website just 48 hours prior to this meeting. I did not see any advance notice in the Providence Journal or any other media. *Was there a press release about these meetings?* The last news release on the General Assembly website was on July 10. It was not surprising that there were only about 8 members of the public including the press at the July 31 meeting.

Though the open meetings law only requires 48 hours notice, it would encourage more public participation to have the schedule of your next three meetings published in the media well ahead of time. If this is not possible, then give at least 5 days notice for each meeting. The Commission could provide online signups for those wishing to receive this notice.

Also, of interest, the 2004 Preparatory Commission held 7 public hearings and the 1984 Commission held 14 public hearings.

2. Voter Information Handbook is prepared by the Secretary of State. In 1984 and 2004, the Preparatory Commission Reports did not appear in the Voter Information Handbooks. *I have attached the one page that did appear in each Handbook in those years.* The Preparatory Commission report in 1984 was 14 pages; in 2004 it was 10 pages. With the added expense to taxpayers to publish these pages and without allowing in the handbook the objectivity of "pro" and "con" statements of whether or not there should be a Constitutional Convention, it is not appropriate for this Commission's report to appear in the Handbook, as you stated during your

July 31 meeting. In 1994, there was no Commission report, since the General Assembly failed to appoint a Commission and the Governor appointed one on November 7, 1994, the day before the election. That Executive order and the page in the 1994 Voter Information Handbook are attached here.

3. Webcasting and access to this Commission's meetings. It's very helpful that these first two meetings are available on Capitol TV. I recommend that the next three meetings be made available in a similar manner for the public and the media. There will be more incentive for the public to testify if they feel their recommendations will be shared outside of the Commission hearing rooms. The public will also appreciate viewing and hearing these testimonies.

4. There has been no mention by this Commission that your report was due July 30 as was stated in the enabling legislation. The legislation setting up this commission provided that the Commission provide its report by July 30, 2014. However, the first meeting, with only 48 hours notice on the General Assembly website took place one day after this report was due. The impression left to public citizens was that substantive commission business had been conducted before the meeting, outside the public view (e.g., the uncontested leadership elections; the choice of the number of public meetings and places, and placing the Report in the Voters Information Guide.)

In closing, I feel that the modern democratic function of a state constitutional convention is for the citizens to have a meaningful discussion on issues that a legislative body will not address due to its own self interests.

Explanation of Constitutional Amendments and Statewide Questions

November 6, 1984

1. Constitutional Convention

Shall there be a convention to amend or revise the Constitution?

Call of Constitutional Convention

The Secretary of State has placed the question of the calling of the Constitutional Convention on the ballot, pursuant to Section 2 of Article 42 of the State Constitution that provides that, if the question of calling a Constitutional Convention is not submitted by the General Assembly to the voters during any ten-year period, the Secretary of State must submit it to the voters at the next general election.

If a majority of the voters vote to hold a Constitutional Convention, then it will be the responsibility of the 1985 General Assembly to enact legislation determining the method of election of delegates, setting forth an election schedule, and appropriating funds for the Convention to function.

The General Assembly, at its 1983 session, created a bi-partisan commission to assemble information on constitutional questions for the electors. That Commission, which reported July 5, 1984, recommended that the voters vote for a Constitutional Convention at the 1984 General Election and further, if a Constitutional Convention is to be held, that the delegates be elected on a non-partisan basis.

A Constitutional Convention, if held, could propose an entirely new Constitution for adoption or rejection by the voters; it could propose individual amendments to the Constitution; or it could re-write the basic document while presenting what appears to be the most controversial issues to the voters in the form of supplemental amendments, thus allowing individual decisions on each.

The Commission did not take a position on particular issues; it did recommend that the voters should consider, among others, the following issues: four-year terms for the state's General Officers and Legislators, legislative pay, the size of both houses of the General Assembly, reapportionment of the General Assembly, equal rights, initiative, referendum, and the tenure and selection of Supreme Court Justices.

EXPLANATION 2

EXPLANATION FOR QUESTION 2:

CONSTITUTIONAL CONVENTION

PURPOSE AND EXPLANATION: What would approval of this question do?

The General Assembly has submitted the following question to the State's voters:

Shall there be a convention to amend or revise the Constitution?

A vote to "Approve" means you would like to see a Constitutional Convention called to amend or revise the Constitution.

A vote to "Reject" means that you are opposed to holding a Constitutional Convention at this time.

A Constitutional Convention is an assembly of delegates or representatives of the people of the State for the purpose of amending or revising the State's Constitution. A Constitutional Convention, if held, could propose an entirely new Constitution for adoption or rejection by the voters; it could propose individual amendments to the Constitution; or it could re-write the basic document while presenting what appears to be the most controversial issues to the voters in the form of supplemental amendments, thus allowing individual decisions on each.

No amendment or revision to the Constitution agreed upon by a Constitutional Convention shall take effect until the amendments or revisions have been submitted to the voters of the State and approved by a majority of those voting.

A bi-partisan preparatory commission was created by the General Assembly to assemble information on constitutional questions for the voters of the State. The preparatory commission conducted extensive hearings throughout the State and received public comment on a broad range of issues. The preparatory commission, after gathering information on particular issues that voters may consider, has issued a report with its findings but has not taken a position on particular issues.

The parameters of a Constitutional Convention would be decided by the General Assembly and the elected delegates to the Convention. The last Constitutional Convention was in 1985. The preparatory commission reported that the projected cost to the taxpayers of the State of a similarly conducted Convention in 2006 would be approximately \$2,000,000, after adjusting 1985 costs for inflation.

A copy of the complete report issued by the bi-partisan preparatory commission presenting its findings may be viewed on the website of the Rhode Island General Assembly (www.rilin.state.ri.us) or a copy of the report may be obtained from the Rhode Island State Library, State House Room 208, Providence, RI 02903.

If a majority of the voters vote to hold a Constitutional Convention, then it will be the responsibility of the 2005 General Assembly to enact legislation determining the method of election of delegates, setting forth an election schedule, and appropriating funds for the convention to function. The number of delegates shall be equal to the number of members of the House of Representatives and shall be apportioned in the same manner as the members of the House of Representatives.

This question has been proposed by the General Assembly of the State pursuant to Article XIV, Section 2 of the Constitution of Rhode Island, which gives the General Assembly the right to submit to the voters at any election the question, "Shall there be a convention to amend or revise the Constitution?"

HOW MUCH MONEY WILL BE BORROWED?

The referendum would not authorize any borrowing.

Bruce Sundlun, Governor

EXECUTIVE ORDER

94-20

NOVEMBER 7, 1994



State House,
Providence

FORMING A BI-PARTISAN PREPARATORY COMMISSION TO ASSEMBLE
INFORMATION ON CONSTITUTIONAL QUESTIONS IN
PREPARATION FOR A VOTE BY THE QUALIFIED ELECTORS

WHEREAS, Article XIV Section 2 of the Constitution of Rhode Island provides that the question "Shall there be a convention to amend or revise the Constitution?" must appear on the ballot at the next general election if it has not been placed before the electors during any ten (10) year period; and

WHEREAS, the said question has not been before the voters since 1984; and

WHEREAS, Article XIV Section 2 of the Constitution further provides that "prior to a vote by the qualified electors on the holding of a convention, the general assembly, or the governor if the general assembly fails to act, shall provide for a bi-partisan preparatory commission to assemble information on constitutional questions for the electors . . .";

NOW, THEREFORE, I, BRUCE SUNDLUN, by virtue of the authority vested in me as Governor of the State of Rhode Island and Providence Plantations, hereby establish a Preparatory Commission and charge said Commission as follows:

1. The Preparatory Commission shall assemble information on constitutional questions for the electors, and;
2. The Preparatory Commission shall consist of twenty (20) members, to serve until the submission of their final report, and I hereby appoint the following as members to the Committee:

The Honorable Roberto Gonzalez
Speaker John Harwood
Senate Majority Leader Paul Kelly
Representative Wayne Salisbury
Senator Bradford Gorham
Mayor Vincent Cianci
Mayor Francis Lanctot
Mayor David Roderick
David Cooper
Sheldon Sollosy

Barbara Cottam
Stephen Carlotti
Francis X. Flaherty
Carol Grant
Rabbi Guterman
Casby Harrison
Frank Montanaro
Gary Sasse
Vincent Vespia
Tina Benik

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4. The Preparatory Commission shall consider, among other issues, the following matters:

- (a) Elimination of obsolete constitutional language
- (b) Methods of selection of general officers
- (c) Such other issues as it may see fit to consider

and provide information to the electors thereon; and

5. The Preparatory Commission shall report its findings to the Governor, the Speaker of the House of Representatives, the Majority Leader of the Senate, the Minority Leaders of the House and Senate, and to the public, through the news media, no later than June 1, 1994.

The Chairperson of the Commission shall be Francis X. Flaherty. Vacancies in said commission shall be filled in like manner as the original appointment.

The membership of said Commission shall receive no compensation for their services but shall be allowed their travel and necessary expenses. The Commission may engage such clerical, technical and other assistance as it may deem necessary, and spend such other funds as are necessary to accomplish its purpose.

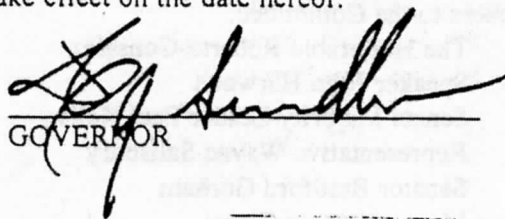
All departments and agencies of the state shall furnish such advice and information, documentary and otherwise, to said Commission and its agents as is deemed necessary or desirable by the Commission to facilitate the purposes of this Executive Order.

This Executive Order shall take effect on the date hereof.

DATE

11/7/94

GOVERNOR



NOV 10 1994

(Explanation 3, continued)

particular form of gambling authorized in certain cities and towns into additional cities and towns, can take effect unless approved both by voters of the state at a statewide referendum and by the voters in the municipality in which the proposed gambling would be allowed.

HOW MUCH MONEY WILL BE BORROWED?

This referendum would not authorize any borrowing.

4**Proposition to Convene a Convention to Amend or Revise the Rhode Island State Constitution****PURPOSE AND EXPLANATION: What would Approval of this Proposition Do?**

A constitutional convention is an assembly of delegates or representatives of the people of the State formed for the purpose of revising or amending the State's Constitution.

This proposition, if approved, would require the General Assembly at its next session to provide by law for the election of delegates to the convention. The number of delegates would be equal to the number of members of the House of Representatives and would be apportioned in the same manner as the House of Representatives. No revision or amendment of the State Constitution agreed upon by the convention can take effect until it has been submitted to and approved by the voters.

HOW MUCH MONEY WILL BE BORROWED?

This referendum would not authorize any borrowing.

5**Transportation****PURPOSE: What will the Transportation Bonds Do?**

Approval and issuance of these bonds will provide the funds necessary to enable the State to develop and improve highways, roads, bridges, state transportation facilities and develop mass transit projects.

The Bi-Partisan Preparatory Commission's First Meeting

by J.H. Snider and Beverly Clay | Aug 2, 2014 | Blog |

On July 29, 2014, one day before its report was due, the General Assembly's legislative leaders appointed the final two members of the Bi-Partisan Preparatory Commission to Assemble Information on Constitutional Convention Questions. Two-thirds of the Commission members are legislators. (For the law creating the Commission, see S2537.)

The same day, legislative leaders announced that the Commission's first meeting would be held on July 31. This provided the required minimum two day public notice for a public meeting.

At the July 31 meeting, the Commission met for five minutes and forty-five seconds. The meeting was perfunctory, as the key decisions were made prior to the meeting. Each member introduced himself and then the co-chairs were unanimously approved without any debate or competing candidates.

The newly elected leaders announced that the Commission would hold four public hearings in different locations (down from 7 in 2004 and 14 in 1984), that it would try to complete its report by early September, and that its final report would be distributed to every Rhode Island citizen via the Voter Information Handbook. No specific dates were announced for either the four public hearings or the final report. No online signup was provided for public notice about the four public hearing dates.

The announcement that the report would be included at taxpayer expense in the Voter Information Handbook was unprecedented and a major enhancement of the Commission's powers. In 1984 and 2004, commissions had created reports, but they were neither publicized at taxpayer expense nor widely read. In 1994, no report was issued, as the commission was appointed only one day before the election.

The 2004 report essentially argued that no state constitutional convention was necessary because the legislature was a better vehicle for all types of constitutional reform, including democratic reforms. Presumably, the 2014 report will also somehow manage to avoid explaining the democratic function of a state constitutional convention.

Our view is that the Commission's report should not be included in the Voter Information Handbook. The notion that the Commission is or could reasonably be expected to be an objective broker for information on a state constitutional convention is ludicrous (see J.H. Snider and Beverly Clay, R.I.'s poor preparation for convention, Providence Journal, August 2).



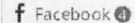




Amazingly, the commission failed to acknowledge its missed July 30 report deadline specified in the legislation that created the commission. Imagine what would happen to you if you failed to submit your taxes by the IRS's April 15 deadline without even a request for extension. It was as though the law passed by the General Assembly had no more significance than a quarterback's feint to pass when the intent was to run the ball.

The *Providence Journal* ran a story on the meeting.

The video of the meeting can be found [here](#).

—by J.H. Snider, Administrator, [RhodeIslandConCon.info](#), and Beverly Clay, Advisory Committee Member, [RhodeIslandConCon.info](#).

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The Bi-Partisan Preparatory Commission's First Meeting
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J.H. Snider and Beverly Clay: "R.I.'s poor preparation for convention," in today's Providence Journal
[shar.es/Ld2XR](#) #ConCon Show Summary

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