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State Constitutional Developments during 1975

AS an off-general-election year, there were relatively few changes in state constitutions in 1975 compared with numerous alterations in these documents proposed and adopted in the even-numbered, general election years. During 1975 the electorates in 12 states and the General Assembly in Delaware (where legislative action only is required) voted on a total of 58 proposed changes (including one local amendment) in their state constitutions; 35 (including the local amendment) were adopted for a percentage of 60.3. In contrast, during 1974, a general election year, the voters in 42 states and the Delaware General Assembly acted on a total of 294 constitutional proposals (including 98 local amendments) and adopted 222 (including 84 local amendments) for a percentage of 75.5 (see the REVIEW, January 1974, page 24). In 1973, the last off-general-election year, there were 66 proposed changes (including 9 local amendments) in 17 states, including Delaware, of which 43 (including 7 local amendments) were adopted for a percentage of 65.2 (see the REVIEW, February 1974, page 83).

Voter action on all but 16 proposals in 1975 occurred at the general election on November 4. Five states held referendums on constitutional issues at other elections; the electorates in two of these five states also acted on proposed constitutional amendments at the general election.

The one local amendment was proposed and adopted in Alabama. Ohio was the only state which voted on amendments proposed by initiative petition, with four such proposals; all four were rejected. No proposals by constitutional conventions were submitted to the electorates of

any state during 1975. Moreover, in the same year no state submitted the question of calling a constitutional convention to the voters. The last such referendum had occurred in 1973 in Rhode Island where the call was approved by a narrow margin.

No constitutional conventions were operative during 1975, the first year in more than a decade that such a constituent assembly had not been convened. In Arkansas, a constitutional convention proposed by Governor David H. Pryor and called by the legislature without popular referendum was scheduled to convene May 29, 1975. A four-to-three decision by the Arkansas supreme court on May 27, however, held the convention enabling act unconstitutional and the convention did not assemble (*Pryor et al. v. Lowe et al.*, 258 Ark. 188 [1975]).

Constitutional commissions were officially operative in six states during 1975. The Alabama, Ohio, South Dakota and Utah commissions, all created in 1969 by statutory law, were still operative at the end of 1975. The North Dakota Committee on Constitutional Revision and the Washington Commission for Constitutional Alternatives were created during 1975, the North Dakota body by a house concurrent resolution and the Washington body by executive order. Both were still in operation December 31. Both had mandates to study the constitution and to submit their recommendations to the legislature and the governor, respectively.

Table 1 summarizes action on constitutional issues during 1975 by method of initiation, of which there were only two—legislative proposal and constitutional initiative. The number of proposals initiated

TABLE 1
SUMMARY OF PROPOSED CONSTITUTIONAL CHANGES DURING 1975
By Method of Initiation

Method of Initiation	Number of States Involved	Total Proposals	Total Adopted	Percentage Adopted
Legislative proposal	13	53	34	64.1
Constitutional initiative	1	1*	1*	100.0
Constitutional convention	1	4	0	0.0
	0	0	0	0
Totals	13	58	35	60.3

* Local amendments not of statewide effect.

by state legislatures far exceeds those originated by other methods, accounting for 54 of the 58 total. Of the 54 legislative proposals, only one was a local amendment affecting a single political subdivision. The local amendment, proposed in Alabama, was adopted. The four constitutional initiatives, all proposed in Ohio, were rejected; no convention proposals were submitted to the voters in 1975. Thus, only proposals by state legislatures received voter approval during the year.

Table 2 provides a state-by-state summary of the number of constitutional changes proposed by each method of initiation, the number and percentage of adoptions, and the totals by all methods. Tables 1 and 2 provide summary figures only, without indication of substantive content except to distinguish between changes of general statewide effect and local amendments. Although the number and extent of constitutional changes are significant, the substantive content of constitutional law is of even greater importance.

The remainder of this analysis is a state-by-state summary of the salient substantive contents of all state constitutional changes of general statewide effect proposed during 1975. Only the numbers proposed and adopted are indicated for local amendments. The data show the dates of referendums and method of initiation, in addition to the number and contents of constitutional changes adopted and rejected. Unless otherwise indicated,

proposals were initiated by state legislatures and the referendum was at the November 4 general election.

Correspondents in all the states provided the data for this summary analysis. Election divisions in the offices of the secretaries of state, state legislative service agencies, and university institutes and bureaus of governmental research and public affairs were the principal sources of basic information.

ALABAMA (one general, one local), June 10. *Adopted*: provision for annual regular legislative sessions beginning in 1976, such sessions to convene on the first Tuesday in May, or such other day as provided by law, and to be limited to 30 legislative and 105 calendar days (special sessions to be limited to 12 legislative and 30 calendar days). The local proposal was adopted.

DELAWARE (one general). *Adopted* (by legislative action only): authorization for payment of annual salary and expense allowance to members of the General Assembly (deletes specified authorized amount of salary and expenses).

KENTUCKY (two general). *Adopted* (two): general revision of the judicial article; definition of homestead exempt property as any real property which is the permanent residence of the owner who is 65 or older, and extension of the exemption only to the value of the property assessable to the owner or to the value in proportion to the owner's interest in any corporation that owns the property.

TABLE 2
CONSTITUTIONAL CHANGES DURING 1974: PROPOSED AND ADOPTED
By States and Method of Initiation

State	Totals: All Methods			Legislative Proposals			Initiative Proposals		
	Prop.	Adop.	% Adop.	Prop.	Adop.	% Adop.	Prop.	Adop.	% Adop.
Alabama	1	1	100.0	1	1	100.0			
Delaware	1*	1*	100.0	1*	1*	100.0			
Kentucky	1	1	100.0	1	1	100.0			
Maine	2	2	100.0	2	2	100.0			
Mississippi	5	5	100.0	5	5	100.0			
New Jersey	3	3	100.0	3	3	100.0			
New York	2	1	50.0	2	1	50.0			
Ohio	7	4	57.1	7	4	57.1			
Oklahoma	9	3	33.3	9	3	33.3			
Pennsylvania	8	8	100.0	8	8	100.0	4	0	0.0
Texas	2	2	100.0	2	2	100.0			
Washington	10	2	20.0	10	2	20.0			
Wisconsin	3	0	0.0	3	0	0.0			
	4	2	50.0	4	2	50.0			
Totals	57	34	59.6	53	34	64.1	4	0	0.0
	1*	1*	100.0	1*	1*	100.0			

* Local amendments not of statewide applicability.

a In Delaware, constitutional changes are proposed and adopted by legislative action only without submission to the voters.

MAINE (five general). *Adopted* (five): provision for single-member districts for the House of Representatives, apportionment of the House and Senate and establishment of an apportionment commission; designation of filing dates for initiative and referendum petitions, clarification of provisions relating to such petitions, the vote thereon, and to review the validity of such petitions; provision for determination of inability of the governor to discharge the powers and duties of his office; abolition of the executive council and reassignment of its constitutional powers to the governor and the legislature, elimination of constitutional status of the office of notary public, and prohibition of appointment of legislators to offices requiring legislative approval; provision for annual legislative sessions with limits on matters which may be considered in the second session of each biennium and for change in the date for convening the legislature.

MISSISSIPPI (three general). *Adopted* (three): increase to \$500 in the limit on jurisdictional amount in controversy in justice of the peace courts, change in the name of "justice of the peace" to "justice court judges," and requirement that each justice court judge have a high school education, and other related provisions; repeal of section providing literacy requirements for electors; repeal of section providing for a poll tax.

NEW JERSEY (two general). *Adopted* (one): extension of the senior citizen property tax deduction, permission for senior citizens to receive a homestead tax rebate or credit in addition to any other deduction or exemption, provision for a homestead rebate or credit to homeowners and residential tenants, and authorization for the legislature to enact general laws relative to property tax abatement in certain instances. *Rejected* (one): prohibition of denial or abridgment of equality of rights under the law on account of sex.

NEW YORK (seven general). *Adopted*

(four): specification of changes in composition of the court on the judiciary, expansion of causes for which justices may be censured, suspended or removed, and creation of a commission on judicial conduct and specification of its powers; specifications for administration and financing of the unified court system; authorization for the legislature to convene itself in special session (on extraordinary occasions) upon petition signed by two thirds of the members elected to each house to act on subjects enumerated in the petition; authorization for the limited conduct of certain games of chance by religious, charitable or nonprofit organizations, such as veterans, firemen and similar groups, subject to legislative supervision and control and to local option. *Rejected* (three): prohibition of denial or abridgment by the state or any of its subdivisions of equality of rights under the law on account of sex; expansion of the definition of sewage for the disposal of which localities may contract debt to include surface water from streets, highways and roadways; exclusion of the cost of employers' contributions for pension, retirement and social security liabilities from the tax limitation of certain school districts outside New York City.

OHIO (nine general, including four initiative proposals). *Adopted* (three legislative proposals): permission for the general assembly to authorize and regulate the operation of bingo conducted by charitable organizations for charitable purposes; requirement that delegates to national conventions of political parties be chosen by the voters in the manner provided by law; requirement for the General Assembly to provide by law methods to give each candidate's name reasonably equal treatment on the ballot by rotation or other methods appropriate to the voting procedure used. *Legislative proposals rejected* (two): authorization for the state, or any city, village, county, township or regional transportation authority to give or loan its credit to aid

specified agencies to reorganize the rail systems in the state, and for laws to reduce taxation on property used for rail transportation, and to permit the state to reimburse local governments for lost tax revenue; authorization for legislation permitting land devoted exclusively to outdoor recreation to be valued for tax purposes at its current value for recreational use, except land utilized and controlled or owned by an organization or person who discriminates against or violates the civil rights of individuals. *Initiative proposals rejected* (four): authorization for tax incentives to industrial plants to create and preserve jobs and assist in construction and utilization of industrial plants; authorization for issuance of bonds and notes in an amount not to exceed \$1.75 billion for development, restoration and upgrading of highways and other transportation facilities; authorization for the state, municipal corporations and counties to provide assistance for housing and nursing, extended care and other health facilities; authorization for issuance of bonds and notes not to exceed \$2.75 billion for capital improvements for municipalities and for energy facilities and heart and cancer facilities to be paid by an additional sales and use tax levy or from the general revenue fund if such levy is insufficient.

OKLAHOMA (eight general), July 22. *Adopted* (eight): provision for abolition of the office of commissioner of charities and corrections; consolidation of the offices of state auditor and state examiner and inspector into the office of state auditor and inspector; provision for gubernatorial appointment of the secretary of state (presently elected by the voters); provision for gubernatorial appointment of the labor commission (presently elected); provision for gubernatorial appointment of the chief mine inspector (presently elected); change in the membership of the commissioners of the land office (removes the secretary of state and substitutes the lieutenant gov-

ernor, and effective January 8, 1979, adds the state auditor and inspector); requirement for the state board of equalization to make itemized estimate of revenues to be received by the state during the next fiscal year, and change in the formula used in making the annual estimate of revenue; change in the membership of the state board of equalization (removes the secretary of state and adds the lieutenant governor, and, since the first listed amendment was approved, adds as of January 8, 1979, the state auditor and inspector and the superintendent of public instruction).

PENNSYLVANIA (one general), May 20. *Adopted*: requirement that all nominations by the governor to vacancies in offices requiring Senate confirmation, regardless of when vacancies occur, become subject to Senate action within 25 legislative days after submission or the nominee shall take office as if the Senate had consented.

November 4 (one general). *Adopted*: extension of provision for emergency legislation to alleviate danger, damage, suffering or hardship to individuals, corporations, or nonprofit institutions to cover great storms or floods of 1974 or 1975.

TEXAS (two general), April 22. *Adopted* (two): revision and consolidation of provisions relating to state and local retirement systems and to the program providing for a maximum state contribution to the state system of 10 percent of the aggregate compensation paid to individuals; authorization to set legislative compensation at \$600 per month.

November 4 (eight general. Collectively these eight proposed amendments provided a general revision of the entire constitution except the bill of rights.) *Rejected* (eight): revision of the separation of powers, legislative and executive articles; revision of the judiciary article; revision of the article on voter qualifications and elections; revision of the education article; revision of the finance article; revision of the local government

article; revision of the general provisions article; revision of the article on the mode of amending the constitution.

WASHINGTON (three general). *Adopted* (two): creation of a commission to fix all legislative salaries, and expansion of the eligibility of legislators for election to other state offices; authorization of governmental assistance for students of all educational institutions, subject to the limitations of the federal constitution. *Rejected* (one): revised judiciary article.

WISCONSIN (four general), April 1. *Adopted* (two): authorization for the state to contract debt for loans for veterans' housing; repeal of the disqualification for voting or holding public office of a person who engages in a duel. *Rejected* (two): authorization for the state to broaden existing authority to contract debt for highways, airports and port facilities to include development, improvement and construction of transportation facilities; authorization for municipalities to extend the exclusion from debt limits to other income-producing (self-amortizing) public projects.

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States Reexamine Local Governments

A November "Information Bulletin" from the Advisory Commission on Intergovernmental Relations provides background on local government reform developments.

The commission notes that reexamination of local governmental functions and structure is under way across the country in several important ways. In Montana, for example, a new constitution and subsequent state laws mandate a vote by the people on alternative forms of local government (see the REVIEW July 1974, page 316; December 1974, page 606; and September 1975, page 393).

In Nevada, last May, legislation was

passed which effectively consolidated Las Vegas and Clark County as of January 1977.

Although the law does not establish a metro or unified government as such, it does provide for close working relationships and detailed allocation of functions to the city and county with combined departments and officials.

The law changed the city limits of Las Vegas and increased its population by about 62.5 percent. It calls for an 11-member county commission with eight members also serving as the city commission. There will be a mayor elected by Las Vegas who will serve as chief executive officer of the city and preside over the eight-member council. The 11-member county commission will elect its own chairman, and the mayor will have no active role in that body. The city and county will share a chief administrative officer to be called a county-city manager or administrator.

The law outlines that the county will perform functions connected with airports (except those administered by an incorporated city), hospitals, juvenile institutions, countywide general planning, mass transportation, and regional sewage collection and treatment.

The city will provide community development block grants, fire protection, parking facilities and parking meters.

Joint city-county departments will provide building inspection and code enforcement, administration, finance, licensing of businesses, trades and occupations, liquor and gaming control, automotive services, personnel, purchasing, public works and engineering, parks and recreation, solid waste, and planning and zoning.

The law insures that no local entity in Clark County would receive less state collected taxes returned to cities on a population basis than they received prior to enactment of the bill and that, to the extent possible, no individual taxpayer would have a higher tax burden.

The existing 22 Assembly districts in