



John Flanagan. | AP Photo/Hans Pennink

How the cost of a convention became urban legend

By **BILL MAHONEY** | 02/09/17 05:38 AM EST

ALBANY — When he announced his opposition to holding a state constitutional convention, an issue voters will decide on in November, Senate Majority Leader John Flanagan cited the potential for high costs.

“In 1967, the constitutional convention cost \$47 million,” he said on Wednesday. “The estimate today, if you move it forward, it would be close to \$350 million, with no guaranteed results.”

He was not the first to use those startling sums. Other opponents of a constitutional convention, an issue that is put to New York voters every 20 years, have been citing those figures as well.

Convention supporters say the estimates are way off base.

"The \$47 million number is bogus and the \$350 million number ridiculous," said Evan Davis, a former president of the New York City Bar Association and the manager of a group trying to persuade voters to support calling a convention.

Documentary evidence from around the time of the last convention backs up Davis: A 1973 book from the League of Women Voters noted that \$800,000 was spent on a preparatory commission and \$10 million was allocated for the convention itself. Henrik Dullea, a SUNY trustee who wrote a book about the 1967 convention, thinks there were some additional costs, but doubts expenses topped \$15 million.

So where did the \$47 million figure for the '67 convention come from?

It certainly has been used before. Articles and op-eds in the Times Union, Newsday and the Buffalo News all cited it. In each case, the source or author was either former assemblyman Jerry Kremer or Anthony Figliola, who works with Kremer at the lobby firm Empire Government Strategies. Kremer was one of the first people to come out in opposition to a convention.

Figliola said the number was obtained by citing a figure for the cost of the '67 convention given by SUNY New Paltz's Gerald Benjamin — \$47 million — and then adjusting it for inflation to get the \$350 million figure for a convention now

Benjamin, the presumed source, was mystified .

"That number is absurd," Benjamin said. "I'm relying on Hank Dullea. I don't remember saying \$350 million, that's for sure."

And indeed, a review of a 2015 event hosted at the New York State Bar Association's office at which Figliola says Benjamin used this number shows he said something similar yet significantly different: "I simply put an inflator on the cost of the '67 convention and came up with \$47 million," Benjamin said.

So his number was already adjusted upwards from the costs of the 1967 convention. The \$350 million figure was created by inflating the costs from 50 years ago twice.

Figliola noted that this misrepresentation of the \$47 million figure also appeared in an article in the Times Union about the 2015 event. He also said that whatever figure was used, it would be a sizable sum.

"While those in the Southern Tier are struggling to make ends meet and homeless people in New York City just want a warm bread — all would agree that even \$15 million is money that would be better spent on solving these critical [societal] problems," he said.

That said, there isn't complete agreement among supporters about how much money will be needed for a convention. Estimates have ranged from the famous \$47 million figure to \$108 million.

There are a number of unsettled debates about how a convention might be structured that would have a significant impact on cost. For example, delegates are guaranteed to make the same salary as members of the Assembly. Barring any statutory change by the end of next year, that would mean that lawmakers elected as delegates would be able to double their salaries and significantly fatten their pensions.

Under one extremely implausible scenario, a convention would essentially be free. Consider, for example, a case in which the Legislature enacted some sought-after reforms and prohibited lawmakers from drawing their regular salaries while serving as delegates. If all of the delegates elected were sitting legislators — a possible scenario frequently noted by convention opponents — the cost for delegates would be nothing more than what the state already pays its legislators. If the delegates then relied mostly on existing staff, there wouldn't be much money spent beyond the costs of buying the extra ink needed to print a few more lines on voters' ballots in 2018 and 2019.

Under another, even more implausible extreme, consider this. Legislators succeed in giving themselves a pay raise next year, as high as \$140,000 a year (which is quite a bit higher than the amounts that have been considered). Under that scenario, the state would need to pay \$28.6 million in salaries for the delegates.

Then, let's assume the convention decides to hire a completely new staff and make expenses equal in size to what the Senate spends in a six-month period. They'd bring in new printers, install new phone lines, hire a new crop of interns, and set up regional offices throughout the state. This would add a little bit more than \$51 million to their budget.

One would also need to factor in the extra costs that would go into paying members' pensions in future years, as their average salary would go increase by virtue of collecting an extra paycheck. If every person elected as a delegate already was on the state payroll for more than nine years by the time the convention came about and then lived an average of 20 years after retirement, the pension fund could take a hit of about \$80 million.

These three figures would bring the total to \$160 million. That's quite a chunk of change, but it's less than half the cost cited by Flanagan.

The actual cost would likely be somewhere in between these two extremes, or in the range of the \$47 million to \$108 million figures used by advocates.

"There is no way it is going to be \$347 million, that's absolutely crazy," said Dullea, the historian of the 1967 convention. "They'd have to be gold-plating the restrooms or something to accomplish that."

Benjamin views the spread of the \$350 million number as a tactic designed to frighten voters into opposing a convention, which could challenge the familiar status-quo.

"And now we have the classic phenomenon emerging which is people in power trying to prevent reform by using scare tactics not based in fact or evidence," he said.