S T A T E O F N E W Y O R K

3088

2009-2010 Regular Sessions

I N A S S E M B L Y

January 22, 2009

Introduced by M. of A. SEMINERIO -- read once and referred to the Committee on Judiciary

CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY

proposing an amendment to the constitution, in relation to providing the electors with the power of initiative, indirect initiative and referendum

Section 1. Resolved (if the Senate concur), That article 20 of the constitution be renumbered to be article 21 and a new article 20 be added to read as follows:

ARTICLE XX

INITIATIVE, INDIRECT INITIATIVE AND REFERENDUM

SECTION 1. A. THE LEGISLATIVE POWERS OF THIS STATE SHALL BE VESTED IN THE SENATE AND ASSEMBLY, BUT THE PEOPLE RESERVE TO THEMSELVES THE POWER TO PROPOSE LAWS AND TO PROPOSE AMENDMENTS TO THE CONSTITUTION, AND TO ADOPT OR REJECT THE SAME AT GENERAL ELECTIONS OR SPECIAL STATEWIDE ELECTIONS CALLED BY THE GOVERNOR FOR THOSE PURPOSES AS HEREINAFTER PROVIDED IN THIS ARTICLE.

B. THIS ARTICLE CONFERS ON THE QUALIFIED ELECTORS OF THIS STATE THE POWER TO PROPOSE LAWS AND TO PROPOSE AMENDMENTS TO THE CONSTITUTION AND IT IS NOT THE INTENDMENT OF THIS ARTICLE TO IN ANY MANNER AFFECT THE PROVISIONS OF ARTICLE NINETEEN OF THIS CONSTITUTION.

S 2. A. AN INITIATIVE IS THE POWER OF THE ELECTORS TO PROPOSE AMENDMENTS TO THE CONSTITUTION AND TO PROPOSE LAWS AND TO ADOPT OR REJECT THEM.

B. AN INITIATIVE MEASURE MAY BE PROPOSED BY PRESENTING TO THE SECRETARY OF STATE A PETITION THAT SETS FORTH THE TEXT OF A PROPOSED AMENDMENT TO THE CONSTITUTION AND IS CERTIFIED TO HAVE BEEN SIGNED BY ELECTORS EQUAL IN NUMBER TO NINE PER CENTUM OF THE NUMBER OF VOTES CAST FOR ALL CANDIDATES FOR GOVERNOR AT THE LAST GUBERNATORIAL ELECTION.

C. (1) AN INITIATIVE MEASURE MAY BE PROPOSED BY PRESENTING TO THE SECRETARY OF STATE A PETITION THAT SETS FORTH THE TEXT OF A PROPOSED LAW AND IS CERTIFIED TO HAVE BEEN SIGNED BY ELECTORS EQUAL IN NUMBER TO

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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SEVEN PER CENTUM OF THE NUMBER OF VOTES CAST FOR ALL CANDIDATES FOR GOVERNOR AT THE LAST GUBERNATORIAL ELECTION.

(2) THE ENACTING CLAUSE OF ANY INITIATIVE MEASURE PROPOSING A LAW SHALL STATE "THE PEOPLE OF THE STATE OF NEW YORK DO ENACT AS FOLLOWS" NOTWITHSTANDING THE PROVISIONS OF SECTION THIRTEEN OF ARTICLE THREE OF THIS CONSTITUTION.

(3) THE PROVISIONS OF SECTION SIXTEEN OF ARTICLE THREE OF THIS CONSTITUTION SHALL NOT APPLY TO ANY PROPOSED LAW SUBMITTED TO THE SECRETARY OF STATE PURSUANT TO INITIATIVE AND IF ADOPTED BY THE ELECTORS IT SHALL BECOME EFFECTIVE NOTWITHSTANDING THE PROVISIONS OF SECTION SIXTEEN OF ARTICLE THREE OF THIS CONSTITUTION.

D. NO "PRIVATE OR LOCAL" LAW MAY BE INITIATED BY THE ELECTORS AS THAT TERM IS SET FORTH IN AND CONSTRUED PURSUANT TO THE PROVISIONS OF SECTION FIFTEEN OF ARTICLE THREE OF THIS CONSTITUTION.

E. THE SECRETARY OF STATE SHALL THEN SUBMIT THE MEASURES AT THE NEXT GENERAL ELECTION HELD AT LEAST NINETY DAYS AFTER IT QUALIFIES OR AT ANY SPECIAL ELECTION HELD PRIOR TO THAT GENERAL ELECTION. NOTWITHSTANDING ANY CONSTITUTIONAL OR STATUTORY LIMITATION TO THE CONTRARY, THE GOVERNOR MAY CALL A SPECIAL STATEWIDE ELECTION FOR ANY ONE OR MORE OF SUCH MEASURES.

F. ANY INITIATIVE MEASURE EMBRACING MORE THAN ONE SUBJECT MAY NOT BE SUBMITTED TO THE ELECTORS OR HAVE ANY EFFECT EXCEPT THAT ANY NUMBER OF DISCRETE INITIATIVE MEASURES MAY BE SUBMITTED TO THE ELECTORS AT ANY GENERAL ELECTION OR ANY SPECIAL STATEWIDE ELECTION CALLED BY THE GOVERNOR.

G. (1) AN INITIATIVE MEASURE APPROVED BY A MAJORITY OF THE VOTES THEREON TAKES EFFECT FIVE DAYS AFTER THE DATE OF THE OFFICIAL DECLARATION OF THE VOTES BY THE SECRETARY OF STATE UNLESS THE MEASURE PROVIDES OTHERWISE.

(2) IF PROVISIONS OF TWO OR MORE MEASURES APPROVED AT THE SAME ELECTION CONFLICT, THOSE OF THE MEASURE RECEIVING THE HIGHEST AFFIRMATIVE VOTE SHALL PREVAIL.

(3) THE LEGISLATURE SHALL PROVIDE THE MANNER IN WHICH PETITIONS SHALL BE CIRCULATED, PRESENTED, AND CERTIFIED, AND MEASURES SUBMITTED TO THE ELECTORS.

H. INITIATIVE POWERS MAY BE EXERCISED BY THE ELECTORS OF EACH MUNICIPALITY TO PROPOSE ANY LOCAL LAW OR ORDINANCE CONCERNING THE AFFAIRS OF SUCH MUNICIPALITY PURSUANT TO PROCEDURES WHICH THE LEGISLATURE OF THIS STATE SHALL ENACT.

I. NO AMENDMENT TO THE CONSTITUTION AND NO LAW PROPOSED TO THE ELECTORS BY INITIATIVE SHALL NAME ANY INDIVIDUAL TO HOLD ANY OFFICE OR NAME OR IDENTIFY ANY PRIVATE CORPORATION OR OTHER ENTITY TO PERFORM ANY PROPRIETARY OR GOVERNMENTAL FUNCTION OF THIS STATE OR ANY OF ITS LOCAL GOVERNMENTS.

S 3. A. INDIRECT INITIATIVE IS THE POWER OF THE ELECTORS TO PRESENT PROPOSED LAWS TO THE LEGISLATURE FOR ITS ACTION ON SUCH PROPOSED LAWS AND IS, IN THE EVENT OF THE LEGISLATURE'S FAILURE TO PASS SUCH PROPOSED LAWS IN THE FORM PRESENTED, THE POWER OF THE ELECTORS TO ADOPT OR REJECT THE SAME.

B. AN INDIRECT INITIATIVE MEASURE MAY BE PROPOSED BY PRESENTING TO THE SECRETARY OF STATE, NOT LESS THAN TEN DAYS PRIOR TO THE COMMENCEMENT OF ANY SESSION OF THE LEGISLATURE, A PETITION THAT SETS FORTH THE TEXT OF A PROPOSED LAW AND IS CERTIFIED TO HAVE BEEN SIGNED BY ELECTORS EQUAL IN NUMBER TO THREE PER CENTUM OF THE NUMBER OF VOTES CAST FOR ALL CANDIDATES FOR GOVERNOR AT THE LAST GUBERNATORIAL ELECTION.

C. THE ENACTING CLAUSE OF AN INDIRECT INITIATIVE MEASURE PROPOSING A LAW SHALL STATE "THE PEOPLE OF THE STATE OF NEW YORK DO ENACT AS FOLLOWS", NOTWITHSTANDING THE PROVISIONS OF SECTION THIRTEEN OF ARTICLE THREE OF THIS CONSTITUTION.

D. NO "PRIVATE OR LOCAL" LAW MAY BE INDIRECTLY INITIATED PURSUANT TO THIS SECTION AS THAT TERM IS SET FORTH IN AND CONSTRUED PURSUANT TO SECTION FIFTEEN OF ARTICLE THREE OF THIS CONSTITUTION.

E. THE SECRETARY OF STATE SHALL TRANSMIT THE SAME TO THE LEGISLATURE WITHIN FIVE DAYS AFTER THE LEGISLATURE SHALL ASSEMBLE AS PROVIDED IN SECTION FOUR OF ARTICLE THIRTEEN OF THIS CONSTITUTION, SATURDAYS AND SUNDAYS EXCEPTED. IF SAID PROPOSED LAW SHALL BE PASSED BY THE LEGISLATURE AS PETITIONED, IT SHALL BECOME LAW AND BE EFFECTIVE IMMEDIATELY UNLESS OTHERWISE PROVIDED BY AN EFFECTIVE DATE CONTAINED THEREIN. IF SAID PROPOSED LAW SHALL NOT BE PASSED, OR IF PASSED IN AN AMENDED FORM OR IF NO ACTION SHALL BE TAKEN THEREON WITHIN FOUR MONTHS FROM THE TIME IT IS RECEIVED BY THE LEGISLATURE, IT SHALL BE SUBMITTED BY THE SECRETARY OF STATE TO THE ELECTORS FOR THEIR APPROVAL OR REJECTION AT THE NEXT REGULAR OR GENERAL ELECTION HELD AT LEAST THIRTY-ONE DAYS AFTER IT QUALIFIES, IF SUCH SUBMISSION SHALL BE DEMANDED BY A SUPPLEMENTARY PETITION CERTIFIED TO HAVE BEEN SIGNED BY ELECTORS IN EQUAL NUMBER TO TWO PER CENTUM OF THE NUMBER OF VOTES CAST FOR ALL CANDIDATES FOR GOVERNOR AT THE LAST GUBERNATORIAL ELECTION AND FILED WITH THE SECRETARY OF STATE WITHIN NINETY DAYS AFTER SUCH PROPOSED LAW SHALL HAVE BEEN REJECTED OR PASSED IN AN AMENDED FORM BY THE LEGISLATURE OR AFTER THE EXPIRATION OF SUCH TERM OF FOUR MONTHS, IF NO ACTION HAS BEEN TAKEN THEREON. NO ELECTOR SHALL BE DISQUALIFIED FROM SIGNING SUCH SUPPLEMENTARY PETITION BY REASON OF HAVING FIRST SIGNED THE PETITION PROVIDED IN SUBDIVISION B OF THIS SECTION.

F. SUCH SUPPLEMENTARY PETITION SHALL EITHER SET FORTH THE TEXT OF THE PROPOSED LAW AS FIRST SET FORTH PURSUANT TO SUBDIVISION B OF THIS SECTION OR SET FORTH THE TEXT OF SUCH PROPOSED STATUTE AS AMENDED AND PASSED BY THE LEGISLATURE, PURSUANT TO SUBDIVISION E OF THIS SECTION AND SHALL CONFORM TO THE PROVISIONS OF SUBDIVISION C OF THIS SECTION.

G. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION E OF THIS SECTION OR OTHER PROVISION OF THIS CONSTITUTION TO THE CONTRARY, THE GOVERNOR MAY CALL A SPECIAL ELECTION FOR THE SUBMISSION OF SUCH PROPOSED STATUTE BEFORE THE NEXT REGULAR OR GENERAL ELECTION IF A SUPPLEMENTARY PETITION HAS OTHERWISE BEEN DULY FILED AND SUBMITTED TO THE SECRETARY OF STATE PURSUANT TO PROVISIONS OF THIS SECTION.

H. AN INDIRECT INITIATIVE MEASURE APPROVED BY A MAJORITY OF THE VOTES THEREON TAKES EFFECT FIVE DAYS AFTER THE DATE OF THE OFFICIAL DECLARATION OF THE VOTES BY THE SECRETARY OF STATE UNLESS THE MEASURE PROVIDES OTHERWISE.

I. THE LEGISLATURE SHALL PROVIDE THE MANNER IN WHICH SUCH PETITIONS AND SUPPLEMENTARY PETITIONS SHALL BE CIRCULATED, PRESENTED AND CERTIFIED, AND MEASURES SUBMITTED TO THE ELECTORS.

S 4. A. A REFERENDUM IS THE POWER OF THE ELECTORS TO APPROVE OR REJECT LAWS OR PARTS OF LAWS EXCEPT LAWS CALLING ELECTIONS AND LAWS PROVIDING FOR TAX LEVIES OR APPROPRIATIONS NECESSARY FOR MEETING THE USUAL CURRENT EXPENSES OF THE STATE; PROVIDED, HOWEVER, THE EXCEPTION CONTAINED IN THIS SUBDIVISION SHALL NOT BE INTERPRETED OR HELD TO RESTRICT ANY POWERS GRANTED TO THE ELECTORS IN SECTION TWO OR THREE OF THIS ARTICLE.

B. A REFERENDUM MEASURE MAY BE PROPOSED BY PRESENTING TO THE SECRETARY OF STATE WITHIN NINETY DAYS AFTER ADJOURNMENT OF THE REGULAR SESSION AT WHICH THE LAW WAS PASSED OR WITHIN NINETY DAYS AFTER ADJOURNMENT OF A SPECIAL OR EXTRAORDINARY SESSION OF THE LEGISLATURE AT WHICH THE LAW WAS

PASSED, A PETITION CERTIFIED TO HAVE BEEN SIGNED BY ELECTORS EQUAL IN NUMBER TO FIVE PER CENTUM OF THE VOTES CAST FOR ALL CANDIDATES FOR GOVERNOR AT THE LAST GUBERNATORIAL ELECTION REQUIRING THAT SUCH LAW BE SUBMITTED TO THE ELECTORS AS HEREIN PROVIDED.

C. THE SECRETARY OF STATE SHALL THEN SUBMIT THE MEASURES AT THE NEXT GENERAL ELECTION HELD AT LEAST THIRTY-ONE DAYS AFTER IT QUALIFIES OR AT A SPECIAL STATEWIDE ELECTION HELD PRIOR TO THAT GENERAL ELECTION. NOTWITHSTANDING ANY CONSTITUTIONAL OR STATUTORY LIMITATION TO THE CONTRARY, THE GOVERNOR MAY CALL A SPECIAL STATEWIDE ELECTION FOR ANY ONE OR MORE OF SUCH MEASURES.

D. (1) A REFERENDUM MEASURE APPROVED BY A MAJORITY OF THE VOTES THEREON TAKES EFFECT FIVE DAYS AFTER THE DATE OF THE OFFICIAL DECLARATION OF THE VOTES BY THE SECRETARY OF STATE UNLESS THE MEASURE PROVIDES OTHERWISE.

(2) IF PROVISIONS OF TWO OR MORE MEASURES APPROVED AT THE SAME ELECTION CONFLICT, THOSE OF THE MEASURE RECEIVING THE HIGHEST AFFIRMATIVE VOTE SHALL PREVAIL.

(3) THE LEGISLATURE SHALL PROVIDE THE MANNER IN WHICH PETITIONS SHALL BE CIRCULATED, PRESENTED, AND CERTIFIED, AND MEASURES SUBMITTED TO THE ELECTORS.

E. REFERENDUM POWERS MAY BE EXERCISED BY THE ELECTORS OF EACH MUNICIPALITY TO APPROVE OR REJECT ANY LOCAL LAW OR ORDINANCE CONCERNING THE AFFAIRS OF SUCH MUNICIPALITY PURSUANT TO PROCEDURES WHICH THE LEGISLATURE OF THIS STATE SHALL ENACT; EXCEPT A LOCAL LAW OR ORDINANCE CALLING AN ELECTION OR A LOCAL LAW OR ORDINANCE PROVIDING FOR TAX LEVIES OR APPROPRIATIONS NECESSARY FOR MEETING THE USUAL CURRENT EXPENSES OF SUCH MUNICIPALITY; PROVIDED, HOWEVER, THE EXCEPTION CONTAINED IN THIS SUBDIVISION SHALL NOT BE INTERPRETED OR HELD TO RESTRICT ANY POWERS GRANTED TO THE ELECTORS IN SECTION TWO OR THREE OF THIS ARTICLE.

S 5. THE FAILURE OF THE LEGISLATURE TO PROVIDE THE MANNER IN WHICH PETITIONS FOR INITIATIVE, INDIRECT INITIATIVE OR REFERENDUM PETITIONS SHALL BE CIRCULATED, PRESENTED, CERTIFIED AND SUCH PROPOSED MEASURES SUBMITTED TO THE ELECTORS SHALL NOT PRECLUDE THE ELECTORS FROM CIRCULATING SUCH PETITIONS AND SHALL NOT PRECLUDE THE SECRETARY OF STATE OR THE ATTORNEY GENERAL FROM PERFORMING THE DUTIES ENJOINED UPON THEM BY THIS ARTICLE WHICH SHALL BE SELF-EXECUTING UNDER SUCH A CIRCUMSTANCE.

S 6. NOTWITHSTANDING ANY CONTRARY PROVISIONS OF THIS ARTICLE AND UPON ALL INITIATIVE, INDIRECT INITIATIVE, SUPPLEMENTARY AND REFERENDUM PETITIONS PROVIDED FOR IN THIS ARTICLE, IT SHALL BE ADDITIONALLY NECESSARY TO FILE FROM EACH OF ONE-HALF OF THE COUNTIES OF THE STATE, SUCH PETITIONS BEARING THE SIGNATURES OF NOT LESS THAN ONE-HALF OF THE DESIGNATED PERCENTAGE OF THE ELECTORS OF SUCH COUNTIES.

S 7. A. THE PROVISIONS OF SECTION SEVEN OF ARTICLE FOUR OF THIS CONSTITUTION SHALL NOT APPLY TO ANY LAW ENACTED PURSUANT TO ANY OF THE PROVISIONS OF THIS ARTICLE.

B. NOTHING CONTAINED IN THIS ARTICLE SHALL RESTRICT THE LEGISLATURE FROM ACTING UPON ANY LAW THAT HAS BEEN SUBJECTED TO A REFERENDUM. THE LEGISLATURE MAY NOT AMEND OR REPEAL AN INITIATIVE, INCLUDING AN INDIRECT INITIATIVE LAW, UNLESS SUCH LAW PERMITS AMENDMENT OR REPEAL SUBJECT TO THE APPROVAL OF THE ELECTORS OR WITHOUT THE APPROVAL OF THE ELECTORS.

S 8. A. THE ATTORNEY GENERAL SHALL PREPARE THE TITLE AND SUMMARY OF EACH INITIATIVE, INDIRECT INITIATIVE OR REFERENDUM WITHIN TWENTY DAYS AFTER IT IS SUBMITTED TO HIM OR HER AND THE FAILURE OF THE ATTORNEY GENERAL TO PREPARE SUCH TITLE AND SUMMARY OF EACH INITIATIVE, INDIRECT INITIATIVE OR REFERENDUM PETITION OR TO TIMELY DO SO SHALL NOT AFFECT

THE VALIDITY OF SUCH INITIATIVE REFERENDUM OR INDIRECT INITIATIVE PETITION OR THE ACTION OF THE ELECTORS THEREON.

B. IF THE ATTORNEY GENERAL SHALL FAIL TO PREPARE THE TITLE AND SUMMARY OF EACH INITIATIVE, INDIRECT INITIATIVE OR REFERENDUM PETITION OR TO TIMELY DO SO, THEN SUCH TITLE AND SUMMARY SHALL BE PREPARED BY THE SECRETARY OF STATE IN TIME FOR SUBMISSION OF THE SAME TO THE ELECTORS AT THE NEXT GENERAL ELECTION OR SPECIAL STATEWIDE ELECTION CALLED BY THE GOVERNOR FOR SUCH MEASURE OR MEASURES.

S 2. Resolved (if the Senate concur), That the foregoing amendment be referred to the first regular legislative session convening after the next succeeding general election of members of the assembly, and, in conformity with section 1 of article 19 of the constitution, be published for three months previous to the time of such election.