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

9108

2009-2010 Regular Sessions

I N A S S E M B L Y

August 17, 2009

Introduced by M. of A. THIELE -- read once and referred to the Committee on Election Law

AN ACT to amend the election law and the public officers law, in relation to proposed constitutional amendments and in relation to directing that the voters of the state consider a constitutional convention

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Legislative intent. The legislature hereby finds and declares that the question for a constitutional convention should be put to the voters of this state and that, so as to assure the production of meaningful and desired reform, the convention process, including the selection of delegates, should be reformed.

The legislature further finds and declares, in furtherance of establishing a meaningful convention process, that:

(a) delegates to the convention should be involved and concerned citizens and not elected officials, lobbyists, or party chairmen;

(b) prior to the convening of the convention, and solely as an aid to delegates, there should be appointed a preparatory commission with adequate time to study the issues, establish a proposed initial agenda and procedures, and prepare position papers, with ongoing information to and participation of the public;

(c) insofar as possible, procedures should be established in both the selection of delegates and in the running of the convention that will reduce partisanship; and

(d) reasonable time limits should be placed on the length of the convention and its costs, so as to assure that the operations of the convention are not a burden on taxpayers, and that the convention may enjoy maximum citizen participation.

The legislature declares that the provisions of this act are in every respect in the public interest and that enactment of this act shall

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

LBD14504-01-9

further the ability of the people of this state to effectively exercise the power and responsibilities as a sovereign and free people.

S 2. Pursuant to the provisions of section 2 of article XIX of the New York state constitution, the question "Shall there be a convention to revise the constitution and amend the same?" shall be submitted to and decided by the people of the state at the general election to be held in the next succeeding November after the effective date of this act, and if such question is answered in the affirmative by a majority of all votes cast for and against it, deciding in favor of a convention for such purpose, the procedures and provisions of section 2 of article XIX of the constitution shall apply and be implemented.

S 3. The election law is amended by adding a new article 18 to read as follows:

ARTICLE 18

REGISTRATION AND REPORTS BY CERTAIN PERSONS PROMOTING OR OPPOSING THE ADOPTION OF PROPOSED CONSTITUTIONAL AMENDMENTS BY A CONSTITUTIONAL CONVENTION

SECTION 18-100. REGISTRATION AND REPORTS BY CERTAIN PERSONS PROMOTING OR OPPOSING THE ADOPTION OF PROPOSED CONSTITUTIONAL AMENDMENTS BY A CONSTITUTIONAL CONVENTION.

S 18-100. REGISTRATION AND REPORTS BY CERTAIN PERSONS PROMOTING OR OPPOSING THE ADOPTION OF PROPOSED CONSTITUTIONAL AMENDMENTS BY A CONSTITUTIONAL CONVENTION. 1. EVERY PERSON RETAINED OR EMPLOYED FOR COMPENSATION BY ANY PERSON, FIRM, CORPORATION OR ASSOCIATION WHO, ON BEHALF OF SUCH PRINCIPAL OR EMPLOYER, PROMOTES OR OPPOSES DIRECTLY OR INDIRECTLY THE ADOPTION OF A PROPOSED CONSTITUTIONAL AMENDMENT OR AMENDMENTS BY A CONSTITUTIONAL CONVENTION, WHETHER OR NOT HE HAS A PERSONAL INTEREST THEREIN, SHALL, BEFORE ANY SERVICE IS ENTERED UPON IN PROMOTING OR OPPOSING SUCH PROPOSED CONSTITUTIONAL AMENDMENT OR AMENDMENTS, FILE IN THE OFFICE OF THE SECRETARY OF STATE A WRITING SUBSCRIBED BY SUCH PERSON STATING THE NAME OR NAMES OF THE PERSON OR PERSONS, FIRM OR FIRMS, CORPORATION OR CORPORATIONS, ASSOCIATION OR ASSOCIATIONS, BY WHOM OR ON WHOSE BEHALF HE IS RETAINED OR EMPLOYED, TOGETHER WITH A BRIEF DESCRIPTION OF THE PROPOSED CONSTITUTIONAL AMENDMENT OR AMENDMENTS IN REFERENCE TO WHICH SUCH SERVICE IS TO BE RENDERED.

2. IT SHALL BE THE DUTY OF THE SECRETARY OF STATE TO PROVIDE A DOCKET TO BE KNOWN AS THE DOCKET OF CONSTITUTIONAL CONVENTION APPEARANCES, WITH APPROPRIATE BLANKS AND INDICES, AND TO FORTHWITH ENTER THEREIN THE NAMES OF THE PERSONS SO RETAINED OR EMPLOYED AND OF THE PERSONS, FIRMS, CORPORATIONS OR ASSOCIATIONS RETAINING OR EMPLOYING THEM, TOGETHER WITH A BRIEF DESCRIPTION OF THE PROPOSED CONSTITUTIONAL AMENDMENT OR AMENDMENTS IN REFERENCE TO WHICH THE SERVICE IS TO BE RENDERED, WHICH DOCKET SHALL BE OPEN TO PUBLIC INSPECTION.

3. UPON THE TERMINATION OF SUCH RETAINER OR EMPLOYMENT THE FACT OF SUCH TERMINATION, WITH THE DATE THEREOF, SHALL BE ENTERED IN THE DOCKET BY THE SECRETARY OF STATE UPON RECEIVING WRITTEN NOTICE TO THAT EFFECT FROM SUCH PERSON OR FROM THE PERSON, FIRM, CORPORATION OR ASSOCIATION IN WHOSE BEHALF SUCH SERVICE HAS BEEN RENDERED.

4. NO PERSON, FIRM, CORPORATION OR ASSOCIATION SHALL RETAIN OR EMPLOY ANY PERSON TO PROMOTE OR OPPOSE ANY PROPOSED CONSTITUTIONAL AMENDMENT OR AMENDMENTS FOR COMPENSATION CONTINGENT IN WHOLE OR IN PART UPON THE ADOPTION OR DEFEAT OF ANY SUCH AMENDMENT OR AMENDMENTS BY THE CONSTITUTIONAL CONVENTION, AND NO PERSON SHALL ACCEPT ANY SUCH EMPLOYMENT OR RENDER ANY SUCH SERVICE FOR COMPENSATION CONTINGENT UPON SUCH ADOPTION OR DEFEAT.

5. NO PERSON SHALL FOR COMPENSATION ENGAGE IN PROMOTING OR OPPOSING ANY PROPOSED CONSTITUTIONAL AMENDMENT OR AMENDMENTS BY SUCH CONSTITUTIONAL CONVENTION EXCEPT UPON APPEARANCE ENTERED IN ACCORDANCE WITH THE FOREGOING PROVISIONS OF THIS SECTION.

6. IT SHALL BE THE DUTY OF EVERY PERSON, FIRM, CORPORATION, PUBLIC OR PRIVATE, OR ASSOCIATION, (WHETHER OR NOT REQUIRED TO FILE PURSUANT TO THE PROVISIONS OF SUBDIVISION ONE OF THIS SECTION), NOT LATER THAN APRIL FIFTEENTH, IN ANY YEAR IN WHICH A CONSTITUTIONAL CONVENTION IS CONVENED AND IN WHICH A PROPOSED CONSTITUTIONAL AMENDMENT OR AMENDMENTS BY A CONSTITUTIONAL CONVENTION IS PUT TO THE VOTERS, TO FILE IN THE OFFICE OF THE SECRETARY OF STATE AN ITEMIZED STATEMENT VERIFIED BY THE OATH OF SUCH PERSON, OR IN CASE OF A FIRM BY THE OATH OF A MEMBER THEREOF, OR IN CASE OF A DOMESTIC CORPORATION OR ASSOCIATION BY THE OATH OF AN OFFICER THEREOF, OR IN CASE OF A FOREIGN CORPORATION OR ASSOCIATION BY THE OATH OF AN OFFICER OR AGENT THEREOF, SHOWING IN DETAIL ALL EXPENSES PAID, INCURRED OR PROMISED DIRECTLY OR INDIRECTLY IN EACH YEAR THROUGH THE CONCLUSION OF THE YEAR IN WHICH ANY PROPOSED CONSTITUTIONAL AMENDMENT OR AMENDMENTS BY A CONSTITUTIONAL CONVENTION HAVE BEEN PUT TO THE VOTERS, IN CONNECTION WITH PROMOTING OR OPPOSING ANY CONSTITUTIONAL AMENDMENT OR AMENDMENTS WHICH MAY BE PROPOSED AT SUCH CONSTITUTIONAL CONVENTION, WITH THE NAMES OF THE PAYEES AND THE AMOUNT PAID TO EACH, INCLUDING ALL DISBURSEMENTS PAID, INCURRED OR PROMISED TO PERSONS EMPLOYED OR RETAINED UP TO SUCH DATE, AND ALSO SPECIFYING THE NATURE OF SUCH CONSTITUTIONAL AMENDMENT OR AMENDMENTS, AND THE INTEREST THEREIN OF SUCH PERSON, FIRM, CORPORATION OR ASSOCIATION; PROVIDED, HOWEVER, NO SUCH ITEMIZED STATEMENT NEED BE FILED IF THE TOTAL OF SUCH ITEMIZED EXPENSES IS LESS THAN TWO HUNDRED FIFTY DOLLARS.

7. THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO THE STATE NOR SHALL SUBDIVISIONS ONE, FIVE AND NINE OF THIS SECTION APPLY TO A COUNTY, CITY, TOWN, VILLAGE, PUBLIC BOARD OR INSTITUTION, OR THEIR AGENTS OR EMPLOYEES; NOR SHALL THE PROVISIONS OF THIS SECTION BE CONSTRUED AS AFFECTING PROFESSIONAL SERVICES IN DRAFTING A PROPOSED CONSTITUTIONAL AMENDMENT OR AMENDMENTS OR IN ADVISING CLIENTS OR IN RENDERING OPINIONS AS TO THE CONSTRUCTION AND EFFECT OF ANY CONSTITUTIONAL AMENDMENT OR AMENDMENTS WHICH MAY BE PROPOSED AT SUCH CONVENTION WHERE SUCH PROFESSIONAL SERVICE IS NOT OTHERWISE CONNECTED WITH CONSTITUTIONAL CONVENTION ACTION.

8. ON OR BEFORE APRIL TWENTY-FOURTH IN ANY YEAR IN WHICH A CONSTITUTIONAL CONVENTION IS CONVENED, THE SECRETARY OF STATE SHALL FURNISH TO EACH DELEGATE TO SUCH CONVENTION A SUMMARY OF THE INFORMATION CONTAINED IN THE DOCKET OF CONSTITUTIONAL CONVENTION APPEARANCES, AND ON OR BEFORE SUCH DATE SHALL ALSO TRANSMIT TO THE PRESIDENT OF SUCH CONSTITUTIONAL CONVENTION A COPY OF EVERY STATEMENT FILED IN HIS OFFICE UP TO AND INCLUDING SUCH DATE PURSUANT TO SUBDIVISION SIX OF THIS SECTION.

9. EVERY PERSON, EVERY MEMBER OF ANY FIRM, AND EVERY ASSOCIATION OR CORPORATION VIOLATING ANY PROVISION OF THIS SECTION AND EVERY PERSON CAUSING OR PARTICIPATING IN A VIOLATION THEREOF SHALL BE GUILTY OF A MISDEMEANOR AND, IN CASE OF AN INDIVIDUAL, SHALL BE PUNISHABLE BY IMPRISONMENT IN A PENITENTIARY OR COUNTY JAIL FOR NOT MORE THAN ONE YEAR OR BY A FINE OF NOT MORE THAN ONE THOUSAND DOLLARS OR BY BOTH, AND, IN CASE OF AN ASSOCIATION OR CORPORATION, BY A FINE OF NOT MORE THAN ONE THOUSAND DOLLARS. IN ADDITION TO THE PENALTIES HEREINBEFORE IMPOSED ANY CORPORATION OR ASSOCIATION FAILING TO FILE THE STATEMENT OF EXPENSES PRESCRIBED BY THIS SECTION SHALL FORFEIT TO THE PEOPLE OF THE STATE OF NEW YORK THE SUM OF ONE HUNDRED DOLLARS PER DAY FOR EACH DAY FOLLOWING THE EXPIRATION OF THIRTY DAYS AFTER THE TIME FIXED BY SUBDIVISION SIX OF

THIS SECTION FOR FILING SUCH STATEMENT, TO BE RECOVERED IN AN ACTION TO BE BROUGHT BY THE ATTORNEY GENERAL.

S 4. The election law is amended by adding a new section 14-117 to read as follows:

S 14-117. CONTRIBUTION LIMITATIONS; CONSTITUTIONAL CONVENTION DELEGATES. ANY OTHER PROVISION OF ANY OTHER LAW TO THE CONTRARY NOTWITHSTANDING, NO PERSON, FIRM, PARTNERSHIP, CORPORATION, ORGANIZATION, COMMITTEE, OR ANY OTHER ENTITY SHALL MAKE A CONTRIBUTION TO ANY CANDIDATE FOR ELECTION AS DELEGATE TO A CONSTITUTIONAL CONVENTION, AND NO CANDIDATE OR POLITICAL COMMITTEE MAY ACCEPT ANY CONTRIBUTION ON BEHALF OF SUCH CANDIDATE FROM A CONTRIBUTOR, WHICH IS IN THE AGGREGATE AMOUNT GREATER THAN ONE HUNDRED DOLLARS IN ANY CALENDAR YEAR.

S 5. The public officers law is amended by adding a new section 73-c to read as follows:

S 73-C. RESTRICTIONS ON SERVICE AS A DELEGATE TO A CONSTITUTIONAL CONVENTION. ANY OTHER PROVISION OF ANY OTHER LAW TO THE CONTRARY NOTWITHSTANDING, ANY PERSON REQUIRED TO FILE AN ANNUAL STATEMENT OF FINANCIAL DISCLOSURE PURSUANT TO SECTION SEVENTY-THREE-A OF THIS ARTICLE, AND NO PERSON REGISTERED AS A LOBBYIST TO THE LEGISLATURE OF THE STATE OF NEW YORK SHALL BE ELIGIBLE TO RUN FOR OR TO BE ELECTED AS A DELEGATE TO A CONSTITUTIONAL CONVENTION.

S 6. Prior to the convening of the constitutional convention, and solely as an aid to delegates, there should be appointed a constitutional convention preparatory commission whose purpose shall be to study the issues, establish a proposed initial agenda and procedures, and prepare position papers, with ongoing information to and participation of the public. Members of the commission shall be appointed as follows: two each by the Governor, the majority leader of the senate and the speaker of the assembly, and one each by the minority leader of the senate and the minority leader of the assembly. The members shall elect a chair.

S 7. Severability. If any provision of this act, or the application thereof to any person or circumstance, shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the provision of this act, or in its application to the person or circumstance, directly involved in the controversy in which such judgment shall have been rendered.

S 8. This act shall take effect immediately; provided if the question proposed in section two of this act shall have been put to the voters and not have received a majority of all votes cast for and against it at such election, such section and section six of this act shall be deemed repealed and be of no further force and effect.