

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:

1 Section 1. Legislative intent. The legislature hereby finds and
2 declares that the question for a constitutional convention should be put
3 to the voters of this state and that, so as to assure the production of
4 meaningful and desired reform, the convention process, including the
5 selection of delegates, should be reformed.
6 The legislature further finds and declares, in furtherance of estab-
7 lishing a meaningful convention process, that:
8 (a) delegates to the convention should be involved and concerned citi-
9 zens and not elected officials, lobbyists, or party chairmen;
10 (b) prior to the convening of the convention, and solely as an aid to
11 delegates, there should be appointed a preparatory commission with
12 adequate time to study the issues, establish a proposed initial agenda
13 and procedures, and prepare position papers, with ongoing information to
14 and participation of the public;
15 (c) insofar as possible, procedures should be established in both the
16 selection of delegates and in the running of the convention that will
17 reduce partisanship; and
18 (d) reasonable time limits should be placed on the length of the
19 convention and its costs, so as to assure that the operations of the
20 convention are not a burden on taxpayers, and that the convention may
21 enjoy maximum citizen participation.
22 The legislature declares that the provisions of this act are in every
23 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.

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

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

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

14 ARTICLE 18

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

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

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

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

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

49 4. NO PERSON, FIRM, CORPORATION OR ASSOCIATION SHALL RETAIN OR EMPLOY
50 ANY PERSON TO PROMOTE OR OPPOSE ANY PROPOSED CONSTITUTIONAL AMENDMENT OR
51 AMENDMENTS FOR COMPENSATION CONTINGENT IN WHOLE OR IN PART UPON THE
52 ADOPTION OR DEFEAT OF ANY SUCH AMENDMENT OR AMENDMENTS BY THE CONSTITU-
53 TIONAL CONVENTION, AND NO PERSON SHALL ACCEPT ANY SUCH EMPLOYMENT OR
54 RENDER ANY SUCH SERVICE FOR COMPENSATION CONTINGENT UPON SUCH ADOPTION
55 OR DEFEAT.

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

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

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

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

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

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

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

5 S 14-117. CONTRIBUTION LIMITATIONS; CONSTITUTIONAL CONVENTION DELEG-
6 ATES. ANY OTHER PROVISION OF ANY OTHER LAW TO THE CONTRARY NOTWITHSTAND-
7 ING, NO PERSON, FIRM, PARTNERSHIP, CORPORATION, ORGANIZATION, COMMITTEE,
8 OR ANY OTHER ENTITY SHALL MAKE A CONTRIBUTION TO ANY CANDIDATE FOR
9 ELECTION AS DELEGATE TO A CONSTITUTIONAL CONVENTION, AND NO CANDIDATE OR
10 POLITICAL COMMITTEE MAY ACCEPT ANY CONTRIBUTION ON BEHALF OF SUCH CANDI-
11 DATE FROM A CONTRIBUTOR, WHICH IS IN THE AGGREGATE AMOUNT GREATER THAN
12 ONE HUNDRED DOLLARS IN ANY CALENDAR YEAR.

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

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

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

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

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