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I N S E N A T E

January 7, 2010

Introduced by Sen. ROBACH -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY

proposing amendments to the constitution, in relation to providing the electors with the power of initiative and referendum

1 Section 1. Resolved (if the Assembly concur), That section 13 of arti-
2 cle 3 of the constitution be amended to read as follows:

3 S 13. The enacting clause of all bills shall be "The People of the
4 State of New York, represented in Senate and Assembly, do enact as
5 follows," and no law shall be enacted except by bill; EXCEPT AS OTHER-
6 WISE PROVIDED IN ARTICLE TWENTY OF THIS CONSTITUTION.

7 S 2. Resolved (if the Assembly concur), That section 14 of article 3
8 of the constitution be amended to read as follows:

9 S 14. A. No bill shall be passed or become a law unless it shall have
10 been printed and upon the desks of the members, in its final form, at
11 least three calendar legislative days prior to its final passage, unless
12 the governor, or the acting governor, shall have certified, under his or
13 her hand and the seal of the state, the facts which in his or her opin-
14 ion necessitate an immediate vote thereon, in which case it must never-
15 theless be upon the desks of the members in final form, not necessarily
16 printed, before its final passage; nor shall any bill be passed or
17 become a law, except by the assent of a majority of the members elected
18 to each branch of the legislature; and upon the last reading of a bill,
19 no amendment thereof shall be allowed, and the question upon its final
20 passage shall be taken immediately thereafter, and the ayes and nays
21 entered on the journal.

22 B. THIS SECTION SHALL NOT APPLY TO ANY INITIATIVE OR REFERENDUM THAT
23 IS SUBJECT TO THE PROVISIONS OF ARTICLE TWENTY OF THIS CONSTITUTION.

24 S 3. Resolved (if the Assembly concur), That section 1 of article 19
25 of the constitution be amended to read as follows:

26 Section 1. A. Any amendment or amendments to this constitution may be
27 proposed in the senate and assembly whereupon such amendment or amend-
28 ments shall be referred to the attorney-general whose duty it shall be
29 within twenty days thereafter to render an opinion in writing to the
30 senate and assembly as to the effect of such amendment or amendments

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

LBD89168-01-0

1 upon other provisions of the constitution. Upon receiving such opinion,
2 if the amendment or amendments as proposed or as amended shall be agreed
3 to by a majority of the members elected to each of the two houses, such
4 proposed amendment or amendments shall be entered on their journals, and
5 the ayes and noes taken thereon, and referred to the next regular legis-
6 lative session convening after the succeeding general election of
7 members of the assembly, and shall be published for three months previ-
8 ous to the time of making such choice; and if in such legislative
9 session, such proposed amendment or amendments shall be agreed to by a
10 majority of all the members elected to each house, then it shall be the
11 duty of the legislature to submit each proposed amendment or amendments
12 to the people for approval in such manner and at such times as the
13 legislature shall prescribe; and if the people shall approve and ratify
14 such amendment or amendments by a majority of the electors voting there-
15 on, such amendment or amendments shall become a part of the constitution
16 on the first day of January next after such approval. Neither the fail-
17 ure of the attorney-general to render an opinion concerning such a
18 proposed amendment nor his or her failure to do so timely shall affect
19 [th] THE validity of such proposed amendment or legislative action ther-
20 eon.

21 B. THIS SECTION SHALL NOT APPLY TO AN AMENDMENT BY INITIATIVE SUBJECT
22 TO THE PROVISIONS OF ARTICLE TWENTY OF THIS CONSTITUTION.

23 S 4. Resolved (if the Assembly concur), That section 16 of article 3
24 of the constitution be amended to read as follows:

25 S 16. A. No act shall be passed which shall provide that any existing
26 law, or any part thereof, shall be made or deemed a part of said act, or
27 which shall enact that any existing law, or part thereof, shall be
28 applicable, except by inserting it in such act.

29 B. THIS SECTION SHALL NOT APPLY TO ANY INITIATIVE OR REFERENDUM
30 SUBJECT TO THE PROVISIONS OF ARTICLE TWENTY OF THIS CONSTITUTION.

31 S 5. Resolved (if the Assembly concur), That section 7 of article 4 of
32 the constitution be amended to read as follows:

33 S 7. A. Every bill which shall have passed the senate and assembly
34 shall, before it becomes a law, be presented to the governor; if the
35 governor approve, he or she shall sign it; but if not, he or she shall
36 return it with his or her objections to the house in which it shall have
37 originated, which shall enter the objections at large on the journal,
38 and proceed to reconsider it. If after such reconsideration, two-thirds
39 of the members elected to that house shall agree to pass the bill, it
40 shall be sent together with the objections, to the other house, by which
41 it shall likewise be reconsidered; and if approved by two-thirds of the
42 members elected to that house, it shall become a law notwithstanding the
43 objections of the governor. In all such cases the votes in both houses
44 shall be determined by yeas and nays, and the names of the members
45 voting shall be entered on the journal of each house respectively. If
46 any bill shall not be returned by the governor within ten days (Sundays
47 excepted) after it shall have been presented to him or her, the same
48 shall be a law in like manner as if he or she had signed it, unless the
49 legislature shall, by their adjournment, prevent its return, in which
50 case it shall not become a law without the approval of the governor. No
51 bill shall become a law after the final adjournment of the legislature,
52 unless approved by the governor within thirty days after such adjourn-
53 ment. If any bill presented to the governor contain several items of
54 appropriation of money, the governor may object to one or more of such
55 items while approving of the other portion of the bill. In such case the
56 governor shall append to the bill, at the time of signing it, a state-

1 ment of the items to which he or she objects; and the appropriation so
2 objected to shall not take effect. If the legislature be in session, he
3 or she shall transmit to the house in which the bill originated a copy
4 of such statement, and the items objected to shall be separately recon-
5 sidered. If on reconsideration one or more of such items be approved by
6 two-thirds of the members elected to each house, the same shall be part
7 of the law, notwithstanding the objections of the governor. All the
8 provisions of this section, in relation to bills not approved by the
9 governor, shall apply in cases in which he or she shall withhold
10 approval from any item or items contained in a bill appropriating money.

11 B. THIS SECTION SHALL NOT APPLY TO ANY INITIATIVE OR REFERENDUM THAT
12 IS SUBJECT TO THE PROVISIONS OF ARTICLE TWENTY OF THIS CONSTITUTION.

13 S 6. Resolved (if the Assembly concur), That article 20 of the consti-
14 tution be renumbered article 21 and a new article 20 be added to read as
15 follows:

16 ARTICLE XX
17 INITIATIVE AND REFERENDUM

18 SECTION 1. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CONSTITUTION,
19 THE PEOPLE RESERVE TO THEMSELVES THE POWER TO PROPOSE LAWS AND TO
20 PROPOSE AMENDMENTS TO THE CONSTITUTION, AND TO ADOPT OR REJECT THE SAME,
21 AT THE POLLS, INDEPENDENT OF THE LEGISLATURE, AND ALSO RESERVE THE
22 POWER, AT THEIR OWN OPTION, TO SO ADOPT OR REJECT ANY ACT, OR SECTION OR
23 PART OF ANY ACT, PASSED BY THE LEGISLATURE.

24 S 2. AS USED IN THIS ARTICLE: A. INITIATIVE IS THE POWER OF THE ELEC-
25 TORS TO PROPOSE AMENDMENTS TO THE CONSTITUTION AND TO PROPOSE STATUTES;
26 AND

27 B. REFERENDUM IS THE POWER OF THE ELECTORS TO APPROVE OR REJECT STAT-
28 UTES OR PARTS OF STATUTES.

29 S 3. INITIATIVE MAY BE USED FOR ANY MEASURE EMBRACING A SINGLE OBJECT
30 OR PURPOSE, EXCEPT THE FOLLOWING: CALLING ELECTIONS; APPROPRIATING
31 FUNDS, EXCEPT FOR AN INITIATIVE PROPOSING AN APPROPRIATION FOR A SINGLE
32 OBJECT OR PURPOSE; NAMING ANY INDIVIDUALS TO HOLD ANY OFFICE; OR NAMING
33 OR IDENTIFYING ANY PRIVATE CORPORATION OR OTHER PRIVATE ENTITY TO
34 PERFORM ANY FUNCTION OR TO HAVE ANY POWER OR DUTY. SUCH MEASURES MAY NOT
35 BE SUBMITTED TO THE ELECTORS AND SHALL NOT HAVE THE FORCE AND EFFECT OF
36 LAW.

37 S 4. AN INITIATIVE OR REFERENDUM MEASURE MAY BE PROPOSED BY PRESENTING
38 TO THE STATE BOARD OF ELECTIONS A PETITION THAT SETS FORTH THE TEXT OF
39 THE PROPOSED STATUTE, CONSTITUTIONAL AMENDMENT OR REFERENDUM AND THAT
40 HAS BEEN SIGNED BY ELECTORS EQUAL IN NUMBER TO AT LEAST FIVE PERCENT OF
41 THE VOTES CAST FOR ALL CANDIDATES FOR GOVERNOR AT THE LAST GUBERNATORIAL
42 ELECTION. SUCH SIGNATURES MUST INCLUDE AT LEAST FIVE THOUSAND SIGNATURES
43 FROM EACH OF AT LEAST THREE-FIFTHS OF THE CONGRESSIONAL DISTRICTS OF THE
44 STATE.

45 S 5. A. PETITIONS FOR AN INITIATIVE OR REFERENDUM MEASURE SHALL BE IN
46 SUBSTANTIALLY THE SAME FORM AS PRESCRIBED BY THE ELECTION LAW FOR INDE-
47 PENDENT NOMINATING PETITIONS, AND SHALL BE CIRCULATED AND PRESENTED IN
48 THE MANNER PRESCRIBED BY SUCH LAW, EXCEPT THAT THE PETITION SHALL STATE
49 THAT THE REGISTERED VOTER DESIRES TO HAVE THE SPECIFIC INITIATIVE OR
50 REFERENDUM QUESTION NOTED ON THE PETITION PLACED ON THE BALLOT INSTEAD
51 OF A CANDIDATE.

52 B. PETITIONS SHALL BE SUBMITTED TO THE STATE BOARD OF ELECTIONS. A
53 SIGNATURE MADE EARLIER THAN ONE YEAR PRIOR TO THE NEXT GENERAL ELECTION
54 SHALL NOT BE COUNTED. CHALLENGES TO SUCH PETITIONS SHALL BE RESOLVED BY
55 THE STATE BOARD OF ELECTIONS, SUBJECT TO JUDICIAL REVIEW AS PROVIDED FOR

1 BY LAW. NO CHALLENGE TO AN INITIATIVE OR REFERENDUM MAY BE FILED MORE
2 THAN TEN DAYS AFTER SUBMISSION OF PETITIONS TO THE STATE BOARD OF
3 ELECTIONS, AND ANY SUCH CHALLENGE SHALL BE FINALLY RESOLVED BY THE STATE
4 BOARD OF ELECTIONS WITHIN TEN DAYS OF ITS FILING.

5 C. MEASURES PROPOSING OR REJECTING STATUTES SHALL BE PLACED ON THE
6 BALLOT BY THE STATE BOARD OF ELECTIONS AT THE NEXT GENERAL ELECTION HELD
7 AT LEAST NINETY DAYS AFTER SUCH MEASURE IS SUBMITTED. MEASURES PROPOS-
8 ING AMENDMENTS TO THE CONSTITUTION SHALL BE PLACED ON THE BALLOT BY THE
9 STATE BOARD OF ELECTIONS AT THE NEXT GENERAL ELECTION IN WHICH THERE ARE
10 CANDIDATES FOR THE OFFICE OF MEMBER OF THE SENATE OR ASSEMBLY HELD AT
11 LEAST NINETY DAYS AFTER THE MEASURE IS SUBMITTED TO THE STATE BOARD OF
12 ELECTIONS AND AT THE NEXT SUCH GENERAL ELECTION.

13 S 6. A. PRIOR TO THE CIRCULATION OF AN INITIATIVE OR REFERENDUM PETI-
14 TION FOR SIGNATURES, A COPY SHALL BE SUBMITTED TO THE ATTORNEY GENERAL
15 OF THE STATE OF NEW YORK WHO SHALL PREPARE A TITLE AND SUMMARY, NOT TO
16 EXCEED ONE HUNDRED WORDS, WHICH SHALL APPEAR ON THE PETITION AND ON THE
17 BALLOT FOR EACH INITIATIVE OR REFERENDUM AND WHICH SHALL GIVE NO INDI-
18 CATION OF SUPPORT OR OPPOSITION TO SUCH MEASURE, WITHIN TWENTY DAYS
19 AFTER SUCH MEASURE IS SUBMITTED TO HIM OR HER.

20 B. A COPY OF SUCH INITIATIVE OR REFERENDUM PETITION SHALL ALSO BE
21 SUBMITTED TO THE NEW YORK STATE LEGISLATIVE BILL DRAFTING COMMISSION OR
22 ITS SUCCESSOR PRIOR TO CIRCULATION FOR SIGNATURES. SUCH COMMISSION SHALL
23 RENDER TECHNICAL COMMENTS ON THE FORM OF THE PROPOSED MEASURE, WITH NO
24 INDICATION OF SUPPORT OR OPPOSITION, TO THE PROPONENTS OF SUCH MEASURE
25 WITHIN TWENTY DAYS OF SUBMISSION.

26 C. NO ACTION OR INACTION BY THE ATTORNEY GENERAL OR THE FAILURE OF THE
27 LEGISLATIVE BILL DRAFTING COMMISSION OR ITS SUCCESSOR TO PROVIDE
28 COMMENTS WITH RESPECT TO AN INITIATIVE OR REFERENDUM PETITION, OR TO
29 TIMELY DO SO, SHALL AFFECT THE VALIDITY OF SUCH INITIATIVE OR REFERENDUM
30 PETITION OR THE ACTION OF THE ELECTORS THEREON.

31 D. ANY ACTION OR PROCEEDING IN WHICH ANY QUESTION ARISES AS TO THE
32 VALIDITY OF AN INITIATIVE OR REFERENDUM MEASURE, WHETHER AN INITIATIVE
33 OR REFERENDUM MEASURE SHOULD APPEAR ON THE BALLOT OR WHICH CHALLENGES
34 THE TITLE AND SUMMARY OF SUCH MEASURE PREPARED BY THE ATTORNEY GENERAL
35 AS FAILING TO ACCURATELY DESCRIBE SUCH MEASURE, SHALL BE HEARD IN THE
36 SUPREME COURT OF THE STATE AND PREFERRED OVER ALL OTHER CIVIL CAUSES IN
37 ALL COURTS OF THE STATE AND SHALL BE HEARD AND DETERMINED IN PREFERENCE
38 TO ALL OTHER CIVIL BUSINESS PENDING THEREIN. NO ACTION OR PROCEEDING
39 CHALLENGING WHETHER AN INITIATIVE OR REFERENDUM MEASURE MAY APPEAR ON
40 THE BALLOT OR WHICH CHALLENGES ANY ACTION OR INACTION BY THE ATTORNEY
41 GENERAL RESPECTING THE TITLE OR SUMMARY OF SUCH MEASURE MAY BE BROUGHT
42 MORE THAN FOURTEEN DAYS AFTER ACTION BY THE ATTORNEY GENERAL PURSUANT TO
43 SUBDIVISION A OF THIS SECTION OR, IF THE ATTORNEY GENERAL FAILS TO ACT,
44 THEN NO LATER THAN FOURTEEN DAYS AFTER THE DEADLINE FOR SUCH ACTION
45 PURSUANT TO SUCH SUBDIVISION A.

46 S 7. EXCEPT TO THE EXTENT REQUIRED BY SECTION EIGHT OF THIS ARTICLE, A
47 MAXIMUM OF FOUR DISCRETE INITIATIVE MEASURES, OR FOUR DISCRETE REFEREN-
48 DUM MEASURES, OR ANY COMBINATION OF DISCRETE INITIATIVE MEASURES OR
49 REFERENDUM MEASURES NOT TO EXCEED A TOTAL OF FOUR MAY BE SUBMITTED TO
50 THE ELECTORS AT ANY ONE GENERAL ELECTION. IF MORE THAN FOUR MEASURES
51 QUALIFY, THOSE INITIATIVE MEASURES AND REFERENDA MEASURES SUBMITTED TO
52 THE STATE BOARD OF ELECTIONS EARLIEST IN TIME SHALL BE PLACED ON THE
53 BALLOT.

54 S 8. ANY INITIATIVE OR REFERENDUM NOT PLACED ON A BALLOT BECAUSE OF
55 THE PROVISIONS OF SECTION SEVEN OF THIS ARTICLE SHALL AUTOMATICALLY BE

1 PLACED ON THE BALLOT FOR THE NEXT GENERAL ELECTION, NOTWITHSTANDING THE
2 PROVISIONS OF SECTION SEVEN OF THIS ARTICLE.

3 S 9. A. TO BE ENACTED, AN INITIATIVE OR REFERENDUM MEASURE PROPOSING
4 OR REJECTING A STATUTE MUST BE APPROVED BY A MAJORITY OF THE ELECTORS OF
5 THE STATE VOTING ON THE MEASURE STATE-WIDE. AN INITIATIVE OR REFERENDUM
6 MEASURE THAT HAS BEEN APPROVED SHALL TAKE EFFECT ON THE FIRST DAY OF
7 JANUARY OF THE YEAR NEXT SUCCEEDING ITS PASSAGE UNLESS THE MEASURE
8 EXPRESSLY PROVIDES OTHERWISE. IF A REFERENDUM PETITION IS APPROVED
9 REPEALING A PART OF A STATUTE, THE REMAINDER OF THE STATUTE SHALL NOT BE
10 DELAYED FROM GOING INTO EFFECT.

11 B. A MEASURE AMENDING THE CONSTITUTION MUST BE APPROVED BY A MAJORITY
12 OF THE ELECTORS OF THE STATE VOTING ON THE MEASURE IN TWO SUCCESSIVE
13 ELECTIONS IN WHICH THERE ARE CANDIDATES FOR STATE SENATE OR STATE ASSEM-
14 BLY ON THE BALLOT. SUCH MEASURE SHALL TAKE EFFECT ON THE FIRST DAY OF
15 JANUARY OF THE YEAR NEXT SUCCEEDING ITS SECOND APPROVAL UNLESS THE MEAS-
16 URE EXPRESSLY PROVIDES OTHERWISE.

17 C. IF PROVISIONS OF TWO OR MORE MEASURES APPROVED AT THE SAME ELECTION
18 CONFLICT, THOSE OF THE MEASURE RECEIVING THE HIGHEST NUMBER OF AFFIRMA-
19 TIVE VOTES SHALL PREVAIL.

20 D. A REFERENDUM MEASURE REJECTING ALL OR PART OF A STATUTE CANNOT BE
21 REPEALED, AMENDED OR OTHERWISE RECONSIDERED BY THE LEGISLATURE FOR A
22 PERIOD OF TWO YEARS. A MEASURE ADOPTED THROUGH INITIATIVE CANNOT BE
23 REPEALED, AMENDED OR OTHERWISE RECONSIDERED BY THE LEGISLATURE FOR A
24 PERIOD OF TWO YEARS. AFTER TWO YEARS NO LAW TO AMEND, REPEAL OR OTHER-
25 WISE RECONSIDER A MEASURE ADOPTED BY INITIATIVE OR REFERENDUM SHALL TAKE
26 EFFECT UNTIL IT SHALL, AT A GENERAL ELECTION, HAVE BEEN SUBMITTED TO THE
27 PEOPLE, AND HAVE RECEIVED A MAJORITY OF ALL THE VOTES CAST FOR AND
28 AGAINST IT AT SUCH ELECTION, NOR SHALL IT BE SO SUBMITTED TO THE PEOPLE
29 WITHIN THREE MONTHS AFTER ITS PASSAGE.

30 E. ANY REFERENDUM OR INITIATIVE ADOPTED BY THE VOTERS MAY BE REPEALED,
31 AMENDED, OR OTHERWISE RECONSIDERED BY THE PEOPLE AT ANY TIME THROUGH THE
32 PROCESS ESTABLISHED BY THIS ARTICLE FOR INITIATIVE OR REFERENDUM MEAS-
33 URES.

34 S 10. INITIATIVE AND REFERENDUM IN CITIES, TOWNS, VILLAGES AND COUN-
35 TIES. A. INITIATIVE AND REFERENDUM POWERS ARE RESERVED FOR EVERY CITY,
36 TOWN, VILLAGE AND COUNTY IN THE STATE AS TO ALL LOCAL MATTERS THAT SUCH
37 MUNICIPALITY IS OR SHALL BE EMPOWERED TO ACT PURSUANT TO ARTICLE IX OF
38 THIS CONSTITUTION.

39 B. INITIATIVE AND REFERENDUM IN CITIES, TOWNS, VILLAGES AND COUNTIES
40 SHALL BE CONDUCTED IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE;
41 PROVIDED, HOWEVER, THAT:

42 (I) SIGNATURES OF REGISTERED ELECTORS OF SUCH MUNICIPALITY EQUAL IN
43 NUMBER TO AT LEAST THIRTY THOUSAND OR FIVE PERCENT OF THE VOTES CAST IN
44 SUCH CITY, TOWN, VILLAGE OR COUNTY FOR ALL CANDIDATES FOR GOVERNOR AT
45 THE LAST GUBERNATORIAL ELECTION, WHICHEVER IS LESS, SHALL BE REQUIRED TO
46 PROPOSE ANY MEASURE BY INITIATIVE AND REFERENDUM;

47 (II) THE AFFIRMATIVE VOTE OF THE MAJORITY OF ELECTORS OF THE MUNICI-
48 PALITY VOTING ON THE MEASURE SHALL BE REQUIRED TO ENACT SUCH MEASURE;

49 (III) PETITIONS SHALL BE SUBMITTED TO THE COUNTY BOARD OF ELECTIONS
50 WHICH SHALL HAVE THE POWERS CONFERRED AND THE DUTIES IMPOSED ON THE
51 STATE BOARD OF ELECTIONS BY THIS ARTICLE; AND

52 (IV) THE PROVISIONS OF SUBDIVISION B OF SECTION SIX OF THIS ARTICLE
53 SHALL NOT BE APPLICABLE.

54 S 11. THIS ARTICLE OF THE CONSTITUTION SHALL BE IN ALL RESPECTS SELF-
55 EXECUTING, EXCEPT THAT THE MANNER AND METHOD OF EXERCISING THE POWER OF

1 INITIATIVE AND REFERENDUM MAY BE PRESCRIBED PURSUANT TO LAW, CONSISTENT
2 WITH AND LIMITED BY THE PROVISIONS OF THIS ARTICLE.

3 S 7. Resolved (if the Assembly concur), That the foregoing amendments
4 be referred to the first regular legislative session convening after the
5 next succeeding general election of members of the assembly, and, in
6 conformity with section 1 of article 19 of the constitution, be
7 published for 3 months previous to the time of such election.