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

3380

2011-2012 Regular Sessions

I N A S S E M B L Y

January 25, 2011

Introduced by M. of A. CALHOUN, THIELE, SAYWARD -- Multi-Sponsored by -- M. of A. BUTLER, CONTE, CROUCH, FINCH, KOLB, J. MILLER, OAKS, TEDISCO -- 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 and referendum

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

ARTICLE XX

INITIATIVE AND REFERENDUM

SECTION 1. THE LEGISLATIVE POWER OF THIS STATE SHALL BE VESTED IN THE SENATE AND ASSEMBLY, BUT THE PEOPLE RESERVE TO THEMSELVES THE POWER TO PROPOSE LAWS AND AMENDMENTS TO THE CONSTITUTION, AND TO ADOPT OR REJECT THE SAME, AT THE POLLS, INDEPENDENT OF THE LEGISLATURE, AND ALSO RESERVE THE POWER, AT THEIR OWN OPTION, TO SO ADOPT OR REJECT ANY ACT, OR SECTION OR PART OF ANY ACT, PASSED BY THE LEGISLATURE.

S 2. A. THE INITIATIVE IS THE POWER OF THE ELECTORS TO PROPOSE STATUTES AND AMENDMENTS TO THE CONSTITUTION AND TO ADOPT OR REJECT THEM. EVERY INITIATIVE STATUTE WHICH MANDATES THE EXPENDITURE OF MONIES SHALL CLEARLY STATE THE REVENUES FROM WHICH SUCH MONIES SHALL BE DERIVED. EVERY INITIATIVE STATUTE WHICH MANDATES A REDUCTION IN REVENUES OR EXPENDITURES SHALL CLEARLY STATE WHAT REVENUES WILL REPLACE THOSE REDUCED OR THE EXPENDITURES AND SERVICES TO BE REDUCED OR ELIMINATED.

B. AN INITIATIVE MEASURE MAY BE PROPOSED BY PRESENTING TO THE SECRETARY OF STATE A PETITION THAT SETS FORTH THE TEXT OF THE PROPOSED STATUTE OR AMENDMENT TO THE CONSTITUTION AND IS CERTIFIED TO HAVE BEEN SIGNED BY ELECTORS EQUAL IN NUMBER TO FIVE PERCENT IN THE CASE OF A STATUTE, AND EIGHT PERCENT IN THE CASE OF AN AMENDMENT TO THE CONSTITUTION, OF THE VOTES FOR ALL CANDIDATES FOR GOVERNOR AT THE LAST GUBERNATORIAL ELECTION.

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

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C. THE SECRETARY OF STATE SHALL THEN SUBMIT THE MEASURE AT THE NEXT GENERAL ELECTION HELD AT LEAST ONE HUNDRED THIRTY-ONE DAYS AFTER IT QUALIFIES OR AT ANY SPECIAL STATEWIDE ELECTION HELD PRIOR TO THAT GENERAL ELECTION. THE GOVERNOR MAY CALL A SPECIAL STATEWIDE ELECTION FOR THE MEASURE.

D. AN 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.

S 3. A. A REFERENDUM IS THE POWER OF THE ELECTORS TO APPROVE OR REJECT STATUTES OR PARTS OF STATUTES EXCEPT STATUTES NECESSARY FOR THE IMMEDIATE PRESERVATION OF THE PUBLIC PEACE, HEALTH OR SAFETY, STATUTES CALLING ELECTIONS, AND STATUTES PROVIDING FOR TAX LEVIES OR APPROPRIATIONS FOR USUAL CURRENT EXPENSES OF THE STATE.

B. A REFERENDUM MEASURE MAY BE PROPOSED BY PRESENTING TO THE SECRETARY OF STATE A PETITION CERTIFIED TO HAVE BEEN SIGNED BY ELECTORS EQUAL IN NUMBER TO FIVE PERCENT OF THE VOTES FOR ALL CANDIDATES FOR GOVERNOR AT THE LAST GUBERNATORIAL ELECTION, ASKING THAT THE STATUTE OR PART OF IT BE SUBMITTED TO THE ELECTORS.

C. THE SECRETARY OF STATE SHALL THEN SUBMIT THE MEASURE 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. THE GOVERNOR MAY CALL A SPECIAL STATEWIDE ELECTION FOR THE MEASURE.

S 4. A. AN INITIATIVE OR REFERENDUM MEASURE APPROVED BY A MAJORITY OF THE VOTES THEREON TAKES EFFECT FIVE DAYS AFTER THE DATE OF THE OFFICIAL DECLARATION OF THE VOTE BY THE STATE BOARD OF ELECTIONS UNLESS THE MEASURE PROVIDES OTHERWISE. IF A REFERENDUM PETITION IS FILED AGAINST A PART OF A STATUTE THE REMAINDER OF THE STATUTE SHALL NOT BE DELAYED FROM GOING INTO EFFECT.

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

C. ANY ISSUE DEFEATED BY REFERENDUM CANNOT BE RECONSIDERED BY THE LEGISLATURE FOR A PERIOD OF TWO YEARS. ANY INITIATIVE MEASURE THAT HAS BEEN ADOPTED CANNOT BE REPEALED OR AMENDED BY THE LEGISLATURE FOR A PERIOD OF TWO YEARS.

D. THE VETO POWER OF THE GOVERNOR SHALL NOT EXTEND TO AN INITIATIVE OR REFERENDUM STATUTE APPROVED BY THE ELECTORS.

E. PRIOR TO CIRCULATION OF AN INITIATIVE OR REFERENDUM PETITION FOR SIGNATURES, A COPY SHALL BE SUBMITTED TO THE ATTORNEY GENERAL WHO SHALL PREPARE A TITLE AND SUMMARY OF THE MEASURE AS PROVIDED BY LAW.

F. THE LEGISLATURE SHALL PROVIDE THE MANNER IN WHICH PETITIONS SHALL BE CIRCULATED, PRESENTED AND CERTIFIED, AND MEASURES SUBMITTED TO THE ELECTORS WITHIN A TWO YEAR PASSAGE OF THIS AMENDMENT TO THE CONSTITUTION.

S 5. INITIATIVE AND REFERENDUM POWERS MAY BE EXERCISED BY THE ELECTORS OF EACH MUNICIPALITY UNDER PROCEDURES THAT THE LEGISLATURE SHALL PROVIDE.

S 6. NO AMENDMENT TO THE CONSTITUTION, AND NO STATUTE PROPOSED TO THE ELECTORS BY THE LEGISLATURE OR BY INITIATIVE, THAT NAMES ANY INDIVIDUAL TO HOLD ANY OFFICE, OR NAMES OR IDENTIFIES ANY PRIVATE CORPORATION TO PERFORM ANY FUNCTION OR TO HAVE ANY POWER OR DUTY OR ATTEMPTS TO ABOLISH AN EXISTING STATE AGENCY, MAY BE SUBMITTED TO THE ELECTORS OR HAVE ANY EFFECT.

S 7. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, UPON ALL INITIATIVE 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 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 3 months previous to the time of such election.