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

6501

2011-2012 Regular Sessions

I N A S S E M B L Y

March 21, 2011

Introduced by M. of A. KOLB, RAIA, TOBACCO, CORWIN, CONTE, GIGLIO, P. LOPEZ -- Multi-Sponsored by -- M. of A. BARCLAY, HAWLEY, SAYWARD -- 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 for initiative and referendum petitions for electors

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

LEGISLATIVE POWER 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 THEM AT THE POLLS IF AFTER SUBMITTING THE SAME ACCORDING TO THE METHOD PROVIDED HEREIN TO THE LEGISLATURE THAT BODY FAILS TO TAKE POSITIVE ACTION, 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. THESE RESERVED POWERS ARE THE INITIATIVE AND REFERENDUM.

SECTION 1. AN INITIATIVE OR REFERENDUM PETITION SHALL SET FORTH THE FULL TEXT OF THE LAW OR AMENDMENT, HEREINAFTER DESIGNATED AS THE MEASURE, WHICH IS PROPOSED BY THE PETITION.

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) A REFERENDUM IS THE POWER OF THE ELECTORS TO APPROVE OR REJECT LAWS OR PARTS OF LAWS, EXCEPT LAWS CALLING ELECTIONS; PROVIDED, HOWEVER, THE EXCEPTION CONTAINED IN THIS SUBDIVISION SHALL NOT BE INTERPRETED OR HELD TO RESTRICT ANY POWERS GRANTED TO THE ELECTORS IN SUBDIVISION (A) OF THIS SECTION.

S 3. NO INITIATIVE OR REFERENDUM MEASURE MAY BE PROPOSED WHICH IS BEYOND THE REACH OF THE STATE LEGISLATURE ITSELF; OR THE OPERATION OF

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

LBD89063-01-1

WHICH IS RESTRICTED TO A PARTICULAR TOWN, CITY, OR OTHER POLITICAL SUBDIVISION WHICH IS NOT STATEWIDE; OR NAMING ANY PERSON TO HOLD PUBLIC OFFICE; OR ABOLISHING A STATE AGENCY; OR APPROPRIATING SPECIFIC SUMS OF MONEY FROM THE TREASURY.

S 4. AN INITIATIVE OR REFERENDUM MEASURE EMBRACING MORE THAN ONE SUBJECT MAY NOT BE SUBMITTED TO THE ATTORNEY GENERAL NOR HAVE ANY EFFECT.

S 5. AN INITIATIVE OR REFERENDUM PETITION SHALL BE PROPOSED BY AT LEAST TWO HUNDRED FIFTY SPONSORS WHO ARE REGISTERED VOTERS IN THE STATE OF NEW YORK. ONE SPONSOR SHALL BE DESIGNATED CHAIRPERSON BY THE PETITIONING COMMITTEE AND SHALL REPRESENT THE COMMITTEE. NO SOONER THAN JANUARY FIRST OF THE YEAR PRECEDING THE CONVENING OF THE LEGISLATIVE SESSION IN WHICH THE MEASURE WILL BE INTRODUCED, THE PROPOSAL SHALL BE SUBMITTED TO THE ATTORNEY GENERAL. THE ATTORNEY GENERAL SHALL RENDER AN OPINION AS TO ITS CONSTITUTIONALITY IF A STATUTE, OR ITS EFFECT UPON OTHER PROVISIONS OF THE CONSTITUTION IF AN AMENDMENT AND ALSO RENDER HIS OR HER ADVICE AS TO THE FORM OF THE PROPOSED MEASURE AND AS TO ITS SUITABILITY TO ACCOMPLISH ITS PURPOSE. HE OR SHE SHALL ALSO CERTIFY THAT THE MEASURE IS NOT SUBSTANTIALLY THE SAME IN CONTENT OR INTENT AS ANY MEASURE WHICH HAS BEEN QUALIFIED FOR SUBMITTAL TO THE VOTERS IN LIKE MANNER AT EITHER OF THE TWO PRECEDING BIENNIAL STATE ELECTIONS, AND THAT IT CONTAINS ONLY SUBJECTS NOT EXCLUDED FROM THE POPULAR INITIATIVE OR REFERENDUM. THE ATTORNEY GENERAL'S DETERMINATION SHALL BE MADE WITHIN THIRTY DAYS AFTER RECEIPT OF SAME. THE MEASURE SHALL THEN BE SUBMITTED TO THE SECRETARY OF STATE FOR APPROVAL OF FORM AND PREPARATION OF A PETITION TITLE REPRESENTING THE INTENT OF THE PROPOSAL. THE SECRETARY OF STATE SHALL PREPARE, IN CONSULTATION WITH THE CHAIRPERSON OF THE SPONSORING COMMITTEE, AN UNBIASED, NON-ARGUMENTATIVE SUMMARY OF THE PROPOSAL NOT TO EXCEED ONE HUNDRED WORDS WHICH SHALL APPEAR ON THE PETITIONS. THE SECRETARY OF STATE SHALL PROVIDE BLANKS CONTAINING THE SUMMARY OF THE PROPOSED MEASURE FOR THE USE OF SUBSEQUENT SIGNERS. ACTION BY THE SECRETARY OF STATE SHALL BE COMPLETED WITHIN THIRTY DAYS OF RECEIPT OF THE PETITION FROM THE ATTORNEY GENERAL.

S 6. THE PETITIONING COMMITTEE ASSUMES FULL RESPONSIBILITY FOR THE CIRCULATION OF THE PETITIONS. ONLY REGISTERED VOTERS OF NEW YORK STATE MAY CARRY OR SIGN PETITIONS. PETITION BEARERS SHALL CARRY A COPY OF THE FULL TEXT OF THE INITIATIVE OR REFERENDUM. PETITIONS SHALL BE CIRCULATED TO OBTAIN SIGNATURES OF ELECTORS EQUAL IN NUMBER TO SIX PERCENT OF THE ELECTORS WHO VOTED FOR GOVERNOR IN THE LAST GUBERNATORIAL ELECTION IF THE MEASURE IS A STATUTE, OR EIGHT PERCENT IF THE MEASURE AMENDS THE CONSTITUTION. NO MORE THAN FIVE PERCENT OF THE REQUIRED NUMBER OF SIGNATURES SHALL COME FROM ANY ONE COUNTY OF THE STATE. THE PETITIONS SHALL BE FILED WITH THE SECRETARY OF STATE AT LEAST TEN DAYS BEFORE THE LEGISLATURE CONVENES AT THE BEGINNING OF ITS ANNUAL SESSION. THE SECRETARY OF STATE SHALL SUBMIT THE MEASURE TO BOTH HOUSES OF THE LEGISLATURE WITHIN THIRTY DAYS OF RECEIPT OF SAME, FOLLOWING CERTIFICATION OF SIGNATURES IN A LIKE MANNER AS EMPLOYED IN CERTIFYING THOSE OF AN INDEPENDENT CANDIDATE FOR STATEWIDE OFFICE. 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 7. IF THE MEASURE INTRODUCED BY INITIATIVE OR REFERENDUM IS A STATUTE AND IS PASSED BY BOTH HOUSES OF THE LEGISLATURE AND APPROVED BY THE GOVERNOR IT SHALL BECOME A LAW; HOWEVER, THE GOVERNOR MAY VETO THE MEASURE. BOTH HOUSES OF THE LEGISLATURE MUST PASS THE MEASURE WITHIN SIX MONTHS AFTER RECEIPT OF THE MEASURE FROM THE SECRETARY OF STATE OR OVER-

RIDE A GUBERNATORIAL VETO OF THE MEASURE WITHIN THE SAME TIME PERIOD. IF THE LEGISLATURE FAILS TO DO SO THE SECRETARY OF STATE SHALL SUBMIT THE MEASURE TO THE VOTERS AT THE NEXT GENERAL ELECTION IF SUCH SUBMISSION SHALL BE DEMANDED BY A SUPPLEMENTARY PETITION CERTIFIED TO HAVE BEEN SIGNED BY ELECTORS IN EQUAL NUMBER TO ONE 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 ONE HUNDRED TWENTY DAYS AFTER SUCH PROPOSED LAW OR REFERENDUM 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 AS HEREINBEFORE PROVIDED IN THIS SECTION. IF THE MEASURE IS AMENDED BY THE LEGISLATURE AND PASSES BOTH HOUSES BOTH THE AMENDED MEASURE AND THE ORIGINAL MEASURE SHALL BE PUT ON THE BALLOT. THE ELECTORS MAY CHOOSE ONE OR REJECT BOTH.

S 8. IF THE MEASURE IS A CONSTITUTIONAL AMENDMENT IT SHALL BE SUBMITTED TO THE LEGISLATURE FOR PASSAGE. IF THE MEASURE FAILS TO PASS EITHER HOUSE OF THE LEGISLATURE IN ITS ORIGINAL FORM, IN THE TWO YEAR TERM IN WHICH IT IS FIRST INTRODUCED, OR, IF THE MEASURE IN ITS ORIGINAL FORM FAILS TO PASS EITHER HOUSE OF THE NEXT SEPARATELY ELECTED LEGISLATURE IN EITHER YEAR OF ITS TWO YEAR TERM AFTER HAVING BEEN PASSED BY THE PREVIOUSLY ELECTED LEGISLATURE, THE PETITIONING COMMITTEE SHALL PRESENT TO THE SECRETARY OF STATE WITHIN NINETY DAYS OF A NEGATIVE VOTE OF EITHER HOUSE ON THE PROPOSED MEASURE OR UPON ADJOURNMENT WITHOUT ACTION ON THE PROPOSED MEASURE AN ADDITIONAL NUMBER OF SIGNATURES, WHICH MAY OR MAY NOT BE DUPLICATES OF THE SIGNATURES ON THE ORIGINAL PETITION, EQUAL TO FOUR PERCENT OF THOSE VOTING IN THE LAST GUBERNATORIAL ELECTION, WITH NO MORE THAN FIVE PERCENT OF THESE COMING FROM ANY ONE COUNTY OF THE STATE. UPON RECEIPT OF THE ADDITIONAL SIGNATURES THE SECRETARY OF STATE SHALL HAVE FIFTEEN DAYS TO CERTIFY THEIR VALIDITY. HE OR SHE SHALL THEN SUBMIT THE MEASURE TO THE VOTERS AT THE NEXT GENERAL ELECTION, PROVIDED THAT THE SAID ELECTION IS TO BE HELD MORE THAN FOUR WEEKS FOLLOWING FILING OF THE ADDITIONAL SIGNATURES TO THE SECRETARY OF STATE.

S 9. INITIATIVE AND REFERENDUM MEASURES MAY NOT BE REPEALED BY THE LEGISLATURE FOR A PERIOD OF TWO YEARS EXCEPT BY A TWO-THIRDS VOTE OF BOTH HOUSES OR UNLESS SUCH LAW OR REFERENDUM PERMITS AMENDMENT OR REPEAL SUBJECT TO THE APPROVAL OF THE ELECTORS OR WITHOUT THE APPROVAL OF THE ELECTORS.

S 10. IF IN THE OPINION OF THE ATTORNEY GENERAL, ANY TWO INITIATIVE OR REFERENDUM MEASURES APPROVED BY THE PEOPLE IN THE SAME ELECTION ARE IN CONFLICT, THE ONE HAVING THE HIGHER NUMBER OF AFFIRMATIVE VOTES AT SUCH ELECTION SHALL GOVERN. A CONSTITUTIONAL AMENDMENT APPROVED AT ANY ELECTION SHALL GOVERN ANY LAW APPROVED AT THE SAME ELECTION.

S 11. AN INITIATIVE OR REFERENDUM MEASURE APPROVED BY A MAJORITY OF THE VOTES CAST THEREON SHALL TAKE EFFECT ONE DAY AFTER THE DATE OF THE CANVASS OF SUCH VOTE BECOMES OFFICIAL UNLESS THE MEASURE PROVIDES OTHERWISE.

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.