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

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2011-2012 Regular Sessions

I N A S S E M B L Y

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Introduced by M. of A. KOLB, RAIA, TOBACCO, CORWIN, CONTE, GIGLIO, P. LOPEZ, CALHOUN, CASTELLI -- Multi-Sponsored by -- M. of A. HAWLEY, SAYWARD -- read once and referred to the Committee on Energy

CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY

proposing the addition of a new article 20 to the constitution, in relation to providing for initiative and referendum and recall

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 AND RECALL

SECTION 1. 1. THE INITIATIVE IS THE POWER OF THE ELECTORS TO PROPOSE STATUTES AND AMENDMENTS TO THE CONSTITUTION AND TO ADOPT OR REJECT THEM.

2. 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.

3. 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.

4. AN INITIATIVE MEASURE EMBRACING MORE THAN ONE SUBJECT MAY NOT BE SUBMITTED TO THE ELECTORS OR HAVE ANY EFFECT.

5. AN INITIATIVE MEASURE SHALL NOT INCLUDE OR EXCLUDE ANY POLITICAL SUBDIVISION OF THE STATE FROM THE APPLICATION OR EFFECT OF ITS PROVISIONS BASED UPON APPROVAL OR DISAPPROVAL OF THE INITIATIVE MEASURE, OR BASED UPON THE CASTING OF A SPECIFIED PERCENTAGE OF VOTES IN FAVOR OF THE MEASURE, BY THE ELECTORS OF THAT POLITICAL SUBDIVISION.

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

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6. AN INITIATIVE MEASURE SHALL NOT CONTAIN ALTERNATIVE OR CUMULATIVE PROVISIONS WHEREIN ONE OR MORE OF THOSE PROVISIONS WOULD BECOME LAW DEPENDING UPON THE CASTING OF A SPECIFIED PERCENTAGE OF VOTES FOR OR AGAINST THE MEASURE.

S 2. 1. THE REFERENDUM IS THE POWER OF THE ELECTORS TO APPROVE OR REJECT STATUTES OR PARTS OF STATUTES EXCEPT URGENCY STATUTES, STATUTES CALLING ELECTIONS, AND STATUTES PROVIDING FOR TAX LEVIES OR APPROPRIATIONS FOR USUAL CURRENT EXPENSES OF THE STATE.

2. A REFERENDUM MEASURE MAY BE PROPOSED BY PRESENTING TO THE SECRETARY OF STATE, WITHIN NINETY DAYS AFTER THE EFFECTIVE DATE OF THE STATUTE, 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. IN THE CASE OF A STATUTE ENACTED BY A BILL PASSED BY THE LEGISLATURE ON OR BEFORE THE DATE THE LEGISLATURE ADJOURNS IN THE SECOND CALENDAR YEAR OF THE BIENNIUM OF THE LEGISLATIVE SESSION, AND IN THE POSSESSION OF THE GOVERNOR AFTER THAT DATE, THE PETITION MAY NOT BE PRESENTED ON OR AFTER JANUARY FIRST NEXT FOLLOWING THE EFFECTIVE DATE UNLESS A COPY OF THE PETITION IS SUBMITTED TO THE ATTORNEY GENERAL PURSUANT TO SUBDIVISION FOUR OF SECTION THREE OF THIS ARTICLE BEFORE JANUARY FIRST.

3. 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 3. 1. AN INITIATIVE STATUTE OR REFERENDUM APPROVED BY A MAJORITY OF VOTES THEREON TAKES EFFECT THE DAY AFTER THE ELECTION UNLESS THE MEASURE PROVIDES OTHERWISE. IF A REFERENDUM PETITION IS FILED AGAINST A PART OF A STATUTE THE REMAINDER SHALL NOT BE DELAYED FROM GOING INTO EFFECT.

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

3. THE LEGISLATURE MAY AMEND OR REPEAL REFERENDUM STATUTES. IT MAY AMEND OR REPEAL AN INITIATIVE STATUTE BY ANOTHER STATUTE THAT BECOMES EFFECTIVE ONLY WHEN APPROVED BY THE ELECTORS UNLESS THE INITIATIVE STATUTE PERMITS AMENDMENT OR REPEAL WITHOUT THEIR APPROVAL.

4. 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.

5. THE LEGISLATURE SHALL PROVIDE THE MANNER IN WHICH PETITIONS SHALL BE CIRCULATED, PRESENTED, AND CERTIFIED, AND MEASURES SUBMITTED TO THE ELECTORS.

S 4. 1. INITIATIVE AND REFERENDUM POWERS MAY BE EXERCISED BY THE ELECTORS OF EACH CITY OR COUNTY UNDER PROCEDURES THAT THE LEGISLATURE SHALL PROVIDE. EXCEPT AS PROVIDED IN SUBDIVISIONS TWO AND THREE OF THIS SECTION, THIS SECTION DOES NOT AFFECT A CITY HAVING A CHARTER.

2. A CITY OR COUNTY INITIATIVE MEASURE SHALL NOT INCLUDE OR EXCLUDE ANY PART OF THE CITY OR COUNTY FROM THE APPLICATION OR EFFECT OF ITS PROVISIONS BASED UPON APPROVAL OR DISAPPROVAL OF THE INITIATIVE MEASURE, OR BASED UPON THE CASTING OF A SPECIFIED PERCENTAGE OF VOTES IN FAVOR OF THE MEASURE, BY THE ELECTORS OF THE CITY OR COUNTY OR ANY PART THEREOF.

3. A CITY OR COUNTY INITIATIVE MEASURE SHALL NOT CONTAIN ALTERNATIVE OR CUMULATIVE PROVISIONS WHEREIN ONE OR MORE OF THOSE PROVISIONS WOULD BECOME LAW DEPENDING UPON THE CASTING OF A SPECIFIED PERCENTAGE OF VOTES FOR OR AGAINST THE MEASURE.

S 5. 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, MAY BE SUBMITTED TO THE ELECTORS OR HAVE ANY EFFECT.

S 6. RECALL IS THE POWER OF THE ELECTORS TO REMOVE AN ELECTIVE OFFICER.

S 7. 1. RECALL OF A STATE OFFICER IS INITIATED BY DELIVERING TO THE SECRETARY OF STATE A PETITION ALLEGING REASON FOR RECALL. SUFFICIENCY OF REASON IS NOT REVIEWABLE. PROPONENTS HAVE ONE HUNDRED SIXTY DAYS TO FILE SIGNED PETITIONS.

2. A PETITION TO RECALL A STATEWIDE OFFICER MUST BE SIGNED BY ELECTORS EQUAL IN NUMBER TO TWELVE PERCENT OF THE LAST VOTE FOR THE OFFICE, WITH SIGNATURES FROM EACH OF FIVE COUNTIES EQUAL IN NUMBER TO ONE PERCENT OF THE LAST VOTE FOR THE OFFICE IN THE COUNTY. SIGNATURES TO RECALL SENATORS, MEMBERS OF THE ASSEMBLY, AND JUDGES OF SUPREME COURTS AND TRIAL COURTS MUST EQUAL IN NUMBER TWENTY PERCENT OF THE LAST VOTE FOR THE OFFICE.

3. THE SECRETARY OF STATE SHALL MAINTAIN A CONTINUOUS COUNT OF THE SIGNATURES CERTIFIED TO THAT OFFICE.

S 8. 1. AN ELECTION TO DETERMINE WHETHER TO RECALL AN OFFICER AND, IF APPROPRIATE, TO ELECT A SUCCESSOR SHALL BE CALLED BY THE GOVERNOR AND HELD NOT LESS THAN SIXTY DAYS NOR MORE THAN EIGHTY DAYS FROM THE DATE OF CERTIFICATION OF SUFFICIENT SIGNATURES.

2. A RECALL ELECTION MAY BE CONDUCTED WITHIN ONE HUNDRED EIGHTY DAYS FROM THE DATE OF CERTIFICATION OF SUFFICIENT SIGNATURES IN ORDER THAT THE ELECTION MAY BE CONSOLIDATED WITH THE NEXT REGULARLY SCHEDULED ELECTION OCCURRING WHOLLY OR PARTIALLY WITHIN THE SAME JURISDICTION IN WHICH THE RECALL ELECTION IS HELD, IF THE NUMBER OF VOTERS ELIGIBLE TO VOTE AT THAT NEXT REGULARLY SCHEDULED ELECTION EQUAL AT LEAST FIFTY PERCENT OF ALL THE VOTERS ELIGIBLE TO VOTE AT THE RECALL ELECTION.

3. IF THE MAJORITY VOTE ON THE QUESTION IS TO RECALL, THE OFFICER IS REMOVED AND, IF THERE IS A CANDIDATE, THE CANDIDATE WHO RECEIVES A PLURALITY IS THE SUCCESSOR. THE OFFICER MAY NOT BE A CANDIDATE, NOR SHALL THERE BE ANY CANDIDACY FOR AN OFFICE FILED PURSUANT TO SECTION TWO OF ARTICLE SIX.

S 9. THE LEGISLATURE SHALL PROVIDE FOR CIRCULATION, FILING, AND CERTIFICATION OF PETITIONS, NOMINATION OF CANDIDATES, AND THE RECALL ELECTION.

S 10. IF RECALL OF THE GOVERNOR OR SECRETARY OF STATE IS INITIATED, THE RECALL DUTIES OF THAT OFFICE SHALL BE PERFORMED BY THE LIEUTENANT GOVERNOR OR COMPTROLLER, RESPECTIVELY.

S 11. A STATE OFFICER WHO IS NOT RECALLED SHALL BE REIMBURSED BY THE STATE FOR THE OFFICER'S RECALL ELECTION EXPENSES LEGALLY AND PERSONALLY INCURRED. ANOTHER RECALL MAY NOT BE INITIATED AGAINST THE OFFICER UNTIL SIX MONTHS AFTER THE ELECTION.

S 12. THE LEGISLATURE SHALL PROVIDE FOR RECALL OF LOCAL OFFICERS. THIS SECTION DOES NOT AFFECT COUNTIES AND CITIES WHOSE CHARTERS PROVIDE FOR RECALL.

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.