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

5190

2011-2012 Regular Sessions

I N S E N A T E

May 3, 2011

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

CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY

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

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

ARTICLE XX

SECTION 1. RECALL IS THE POWER OF THE ELECTORS TO REMOVE AN ELECTIVE OFFICER.

S 2. 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 3. 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

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

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

S 5. 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 6. 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 7. 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 Assembly 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.