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

5512

2013-2014 Regular Sessions

I N S E N A T E

May 16, 2013

Introduced by Sen. MARCHIONE -- 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 of an elective officer

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

RECALL

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

S 2. A. RECALL OF A STATE OFFICER IS INITIATED BY A REGISTERED VOTER REGISTERING HIS OR HER INTENT TO INITIATE A RECALL OF A STATE OFFICIAL WITH THE STATE BOARD OF ELECTIONS. INTENT TO INITIATE A RECALL SHALL INCLUDE A REASON FOR RECALL. SUFFICIENCY OF REASON IS NOT REVIEWABLE. PROPONENTS HAVE NINETY DAYS FROM THE REGISTERING OF INTENT TO FILE SUFFICIENT PETITIONS.

B. A PETITION TO RECALL A STATEWIDE OFFICER SHALL BE SUFFICIENT WHEN SIGNED BY REGISTERED VOTERS EQUAL IN NUMBER TO AT LEAST TWENTY PERCENT OF THE TOTAL NUMBER OF VOTERS TO VOTE IN THE PREVIOUS ELECTION FOR THE OFFICE, WITH SIGNATURES FROM EACH OF THE COUNTIES WITHIN THE STATE EQUAL IN NUMBER TO AT LEAST ONE PERCENT OF THE TOTAL NUMBER OF VOTERS TO VOTE IN THE PREVIOUS ELECTION FOR THE OFFICE IN THE COUNTY. A PETITION TO RECALL SENATORS AND MEMBERS OF THE ASSEMBLY SHALL BE SUFFICIENT WHEN SIGNED BY REGISTERED VOTERS EQUAL IN NUMBER TO AT LEAST TWENTY PERCENT OF THE TOTAL NUMBER OF VOTERS TO VOTE IN THE PREVIOUS ELECTION FOR THE OFFICE IN THE SENATE OR ASSEMBLY DISTRICT. THERE SHALL BE NO ABILITY TO RECALL OFFICERS SERVING IN THE OFFICE OF JUDGE. SUFFICIENT PETITIONS SHALL BE CERTIFIED BY THE STATE BOARD OF ELECTIONS.

C. THE STATE BOARD OF ELECTIONS SHALL MAINTAIN A CONTINUOUS COUNT OF THE SIGNATURES CERTIFIED TO THAT OFFICE.

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

LBD89069-03-3

S 3. A. AN ELECTION TO DETERMINE WHETHER TO RECALL AN OFFICER SHALL BE HELD NO LESS THAN SEVENTY DAYS NOR MORE THAN NINETY DAYS FROM THE DATE OF CERTIFICATION OF SUFFICIENT SIGNATURES.

B. IF THE MAJORITY OF VOTERS VOTE IN FAVOR OF RECALL, THE OFFICER IS REMOVED. IN THE FOLLOWING SPECIAL ELECTION TO FILL THE VACANCY OF THE RECALLED OFFICIAL, THE RECALLED OFFICER MAY NOT BE A CANDIDATE, NOR SHALL THERE BY ANY CANDIDACY FOR AN OFFICE FILLED PURSUANT TO SECTION TWO OF ARTICLE SIX.

C. UPON THE RECALL OF A STATE OFFICIAL IN THE OFFICE OF STATE SENATE OR STATE ASSEMBLY, A SPECIAL ELECTION SHALL BE CALLED BY THE GOVERNOR TO FILL THE VACANCY OF A STATE SENATE OR STATE ASSEMBLY DISTRICT.

S 4. IF RECALL OF THE GOVERNOR IS ENACTED, THE DUTIES OF THE OFFICE SHALL BE PERFORMED BY THE LIEUTENANT GOVERNOR. IF RECALL OF THE LIEUTENANT GOVERNOR IS ENACTED, THE DUTIES OF THE LIEUTENANT GOVERNOR SHALL BE PERFORMED BY THE TEMPORARY PRESIDENT OF THE SENATE. IF RECALL OF THE ATTORNEY GENERAL OR COMPTROLLER IS ENACTED, THE OFFICE OF ATTORNEY GENERAL OR COMPTROLLER SHALL BE FILLED PURSUANT TO SECTION FORTY-ONE OF ARTICLE THREE OF THE PUBLIC OFFICERS LAW.

S 5. A STATE OFFICER WHO IS NOT RECALLED SHALL NOT 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 RECALL.

S 6. COSTS INCURRED BY THE COUNTY BOARD OF ELECTIONS FOR OPERATING THE RECALL AND THE SPECIAL ELECTION SHALL BE REIMBURSED THROUGH THE GENERAL FUND OF NEW YORK STATE.

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.