

5512

2013-2014 Regular Sessions

I N   S E N A T E

May 16, 2013

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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

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

4                     ARTICLE XX

5                     RECALL

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

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

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

26    C. THE STATE BOARD OF ELECTIONS SHALL MAINTAIN A CONTINUOUS COUNT OF  
27    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

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

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

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

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

19 S 5. A STATE OFFICER WHO IS NOT RECALLED SHALL NOT BE REIMBURSED BY  
20 THE STATE FOR THE OFFICER'S RECALL ELECTION EXPENSES LEGALLY AND  
21 PERSONALLY INCURRED. ANOTHER RECALL MAY NOT BE INITIATED AGAINST THE  
22 OFFICER UNTIL SIX MONTHS AFTER THE RECALL.

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

26 S 2. Resolved (if the Assembly concur), That the foregoing amendment  
27 be referred to the first regular legislative session convening after the  
28 next succeeding general election of members of the assembly, and, in  
29 conformity with section 1 of article 19 of the constitution, be  
30 published for 3 months previous to the time of such election.