

2763

2013-2014 Regular Sessions

I N S E N A T E

January 23, 2013

Introduced by Sens. RANZENHOFER, DeFRANCISCO, GOLDEN, LARKIN, O'MARA,
ZELDIN -- read twice and ordered printed, and when printed to be
committed to the Committee on Judiciary

CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY

proposing an amendment to the constitution, in relation to providing the
electors with the power of initiative, indirect initiative and refer-
endum

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

ARTICLE XX

INITIATIVE, INDIRECT INITIATIVE AND REFERENDUM

SECTION 1. A. THE LEGISLATIVE POWERS OF THIS STATE SHALL BE VESTED IN
THE SENATE AND ASSEMBLY, BUT THE PEOPLE RESERVE TO THEMSELVES THE POWER
TO PROPOSE LAWS AND TO PROPOSE AMENDMENTS TO THE CONSTITUTION, AND TO
ADOPT OR REJECT THE SAME AT GENERAL ELECTIONS OR SPECIAL STATEWIDE
ELECTIONS CALLED BY THE GOVERNOR FOR THOSE PURPOSES AS HEREINAFTER
PROVIDED IN THIS ARTICLE.

B. THIS ARTICLE CONFERS ON THE QUALIFIED ELECTORS OF THIS STATE THE
POWER TO PROPOSE LAWS AND TO PROPOSE AMENDMENTS TO THE CONSTITUTION AND
IT IS NOT THE INTENDMENT OF THIS ARTICLE TO IN ANY MANNER AFFECT THE
PROVISIONS OF ARTICLE NINETEEN OF THIS CONSTITUTION.

S 2. A. AN INITIATIVE IS THE POWER OF THE ELECTORS TO PROPOSE AMEND-
MENTS TO THE CONSTITUTION AND TO PROPOSE LAWS AND TO ADOPT OR REJECT
THEM.

B. AN INITIATIVE MEASURE MAY BE PROPOSED BY PRESENTING TO THE SECRE-
TARY OF STATE A PETITION THAT SETS FORTH THE TEXT OF A PROPOSED AMEND-
MENT TO THE CONSTITUTION AND IS CERTIFIED TO HAVE BEEN SIGNED BY ELEC-
TORS EQUAL IN NUMBER TO NINE PER CENTUM OF THE NUMBER OF VOTES CAST FOR
ALL CANDIDATES FOR GOVERNOR AT THE LAST GUBERNATORIAL ELECTION.

C. (1) AN INITIATIVE MEASURE MAY BE PROPOSED BY PRESENTING TO THE
SECRETARY OF STATE A PETITION THAT SETS FORTH THE TEXT OF A PROPOSED LAW

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

LBD89063-01-3

1 AND IS CERTIFIED TO HAVE BEEN SIGNED BY ELECTORS EQUAL IN NUMBER TO
2 SEVEN PER CENTUM OF THE NUMBER OF VOTES CAST FOR ALL CANDIDATES FOR
3 GOVERNOR AT THE LAST GUBERNATORIAL ELECTION.

4 (2) THE ENACTING CLAUSE OF ANY INITIATIVE MEASURE PROPOSING A LAW
5 SHALL STATE "THE PEOPLE OF THE STATE OF NEW YORK DO ENACT AS FOLLOWS"
6 NOTWITHSTANDING THE PROVISIONS OF SECTION THIRTEEN OF ARTICLE THREE OF
7 THIS CONSTITUTION.

8 (3) THE PROVISIONS OF SECTION SIXTEEN OF ARTICLE THREE OF THIS CONSTI-
9 TUTION SHALL NOT APPLY TO ANY PROPOSED LAW SUBMITTED TO THE SECRETARY OF
10 STATE PURSUANT TO INITIATIVE AND IF ADOPTED BY THE ELECTORS IT SHALL
11 BECOME EFFECTIVE NOTWITHSTANDING THE PROVISIONS OF SECTION SIXTEEN OF
12 ARTICLE THREE OF THIS CONSTITUTION.

13 D. NO "PRIVATE OR LOCAL" LAW MAY BE INITIATED BY THE ELECTORS AS THAT
14 TERM IS SET FORTH IN AND CONSTRUED PURSUANT TO THE PROVISIONS OF SECTION
15 FIFTEEN OF ARTICLE THREE OF THIS CONSTITUTION.

16 E. THE SECRETARY OF STATE SHALL THEN SUBMIT THE MEASURES AT THE NEXT
17 GENERAL ELECTION HELD AT LEAST NINETY DAYS AFTER IT QUALIFIES OR AT ANY
18 SPECIAL ELECTION HELD PRIOR TO THAT GENERAL ELECTION. NOTWITHSTANDING
19 ANY CONSTITUTIONAL OR STATUTORY LIMITATION TO THE CONTRARY, THE GOVERNOR
20 MAY CALL A SPECIAL STATEWIDE ELECTION FOR ANY ONE OR MORE OF SUCH MEAS-
21 URES.

22 F. ANY INITIATIVE MEASURE EMBRACING MORE THAN ONE SUBJECT MAY NOT BE
23 SUBMITTED TO THE ELECTORS OR HAVE ANY EFFECT EXCEPT THAT ANY NUMBER OF
24 DISCRETE INITIATIVE MEASURES MAY BE SUBMITTED TO THE ELECTORS AT ANY
25 GENERAL ELECTION OR ANY SPECIAL STATEWIDE ELECTION CALLED BY THE GOVER-
26 NOR.

27 G. (1) AN INITIATIVE MEASURE APPROVED BY A MAJORITY OF THE VOTES THER-
28 EON TAKES EFFECT FIVE DAYS AFTER THE DATE OF THE OFFICIAL DECLARATION OF
29 THE VOTES BY THE SECRETARY OF STATE UNLESS THE MEASURE PROVIDES OTHER-
30 WISE.

31 (2) IF PROVISIONS OF TWO OR MORE MEASURES APPROVED AT THE SAME
32 ELECTION CONFLICT, THOSE OF THE MEASURE RECEIVING THE HIGHEST AFFIRMA-
33 TIVE VOTE SHALL PREVAIL.

34 (3) THE LEGISLATURE SHALL PROVIDE THE MANNER IN WHICH PETITIONS SHALL
35 BE CIRCULATED, PRESENTED, AND CERTIFIED, AND MEASURES SUBMITTED TO THE
36 ELECTORS.

37 H. (1) INITIATIVE AND REFERENDUM POWERS ARE RESERVED FOR EVERY CITY,
38 TOWN, VILLAGE AND COUNTY IN THE STATE AS TO ALL LOCAL MATTERS THAT SUCH
39 MUNICIPALITY IS OR SHALL BE EMPOWERED TO ACT PURSUANT TO ARTICLE NINE OF
40 THIS CONSTITUTION.

41 (2) INITIATIVE AND REFERENDUM IN CITIES, TOWNS, VILLAGES AND COUNTIES
42 SHALL BE CONDUCTED IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE,
43 PROVIDED, HOWEVER, THAT:

44 (A) SIGNATURES OF REGISTERED ELECTORS OF SUCH MUNICIPALITY EQUAL IN
45 NUMBER TO AT LEAST THIRTY THOUSAND OR FIVE PERCENT OF THE VOTES CAST IN
46 SUCH CITY, TOWN, VILLAGE OR COUNTY FOR ALL CANDIDATES FOR GOVERNOR AT
47 THE LAST GUBERNATORIAL ELECTION, WHICHEVER IS LESS, SHALL BE REQUIRED TO
48 PROPOSE ANY MEASURE BY INITIATIVE AND REFERENDUM;

49 (B) THE AFFIRMATIVE VOTE OF THE MAJORITY OF ELECTORS OF THE MUNICI-
50 PALITY VOTING ON THE MEASURE SHALL BE REQUIRED TO ENACT SUCH MEASURE;
51 AND

52 (C) PETITIONS SHALL BE SUBMITTED TO THE COUNTY BOARD OF ELECTIONS
53 WHICH SHALL HAVE THE POWERS CONFERRED AND THE DUTIES IMPOSED ON THE
54 STATE BOARD OF ELECTIONS BY THIS ARTICLE.

55 I. NO AMENDMENT TO THE CONSTITUTION AND NO LAW PROPOSED TO THE ELEC-
56 TORS BY INITIATIVE SHALL NAME ANY INDIVIDUAL TO HOLD ANY OFFICE OR NAME

1 OR IDENTIFY ANY PRIVATE CORPORATION OR OTHER ENTITY TO PERFORM ANY
2 PROPRIETARY OR GOVERNMENTAL FUNCTION OF THIS STATE OR ANY OF ITS LOCAL
3 GOVERNMENTS.

4 S 3. A. INDIRECT INITIATIVE IS THE POWER OF THE ELECTORS TO PRESENT
5 PROPOSED LAWS TO THE LEGISLATURE FOR ITS ACTION ON SUCH PROPOSED LAWS
6 AND IS, IN THE EVENT OF THE LEGISLATURE'S FAILURE TO PASS SUCH PROPOSED
7 LAWS IN THE FORM PRESENTED, THE POWER OF THE ELECTORS TO ADOPT OR REJECT
8 THE SAME.

9 B. AN INDIRECT INITIATIVE MEASURE MAY BE PROPOSED BY PRESENTING TO THE
10 SECRETARY OF STATE, NOT LESS THAN TEN DAYS PRIOR TO THE COMMENCEMENT OF
11 ANY SESSION OF THE LEGISLATURE, A PETITION THAT SETS FORTH THE TEXT OF A
12 PROPOSED LAW AND IS CERTIFIED TO HAVE BEEN SIGNED BY ELECTORS EQUAL IN
13 NUMBER TO THREE PER CENTUM OF THE NUMBER OF VOTES CAST FOR ALL CANDI-
14 DATES FOR GOVERNOR AT THE LAST GUBERNATORIAL ELECTION.

15 C. THE ENACTING CLAUSE OF AN INDIRECT INITIATIVE MEASURE PROPOSING A
16 LAW SHALL STATE "THE PEOPLE OF THE STATE OF NEW YORK DO ENACT AS
17 FOLLOWS", NOTWITHSTANDING THE PROVISIONS OF SECTION THIRTEEN OF ARTICLE
18 THREE OF THIS CONSTITUTION.

19 D. NO "PRIVATE OR LOCAL" LAW MAY BE INDIRECTLY INITIATED PURSUANT TO
20 THIS SECTION AS THAT TERM IS SET FORTH IN AND CONSTRUED PURSUANT TO
21 SECTION FIFTEEN OF ARTICLE THREE OF THIS CONSTITUTION.

22 E. THE SECRETARY OF STATE SHALL TRANSMIT THE SAME TO THE LEGISLATURE
23 WITHIN FIVE DAYS AFTER THE LEGISLATURE SHALL ASSEMBLE AS PROVIDED IN
24 SECTION FOUR OF ARTICLE THIRTEEN OF THIS CONSTITUTION, SATURDAYS AND
25 SUNDAYS EXCEPTED. IF SAID PROPOSED LAW SHALL BE PASSED BY THE LEGISLA-
26 TURE AS PETITIONED, IT SHALL BECOME LAW AND BE EFFECTIVE IMMEDIATELY
27 UNLESS OTHERWISE PROVIDED BY AN EFFECTIVE DATE CONTAINED THEREIN. IF
28 SAID PROPOSED LAW SHALL NOT BE PASSED, OR IF PASSED IN AN AMENDED FORM
29 OR IF NO ACTION SHALL BE TAKEN THEREON WITHIN FOUR MONTHS FROM THE TIME
30 IT IS RECEIVED BY THE LEGISLATURE, IT SHALL BE SUBMITTED BY THE SECRE-
31 TARY OF STATE TO THE ELECTORS FOR THEIR APPROVAL OR REJECTION AT THE
32 NEXT REGULAR OR GENERAL ELECTION HELD AT LEAST THIRTY-ONE DAYS AFTER IT
33 QUALIFIES, IF SUCH SUBMISSION SHALL BE DEMANDED BY A SUPPLEMENTARY PETI-
34 TION CERTIFIED TO HAVE BEEN SIGNED BY ELECTORS IN EQUAL NUMBER TO TWO
35 PER CENTUM OF THE NUMBER OF VOTES CAST FOR ALL CANDIDATES FOR GOVERNOR
36 AT THE LAST GUBERNATORIAL ELECTION AND FILED WITH THE SECRETARY OF STATE
37 WITHIN NINETY DAYS AFTER SUCH PROPOSED LAW SHALL HAVE BEEN REJECTED OR
38 PASSED IN AN AMENDED FORM BY THE LEGISLATURE OR AFTER THE EXPIRATION OF
39 SUCH TERM OF FOUR MONTHS, IF NO ACTION HAS BEEN TAKEN THEREON. NO ELEC-
40 TOR SHALL BE DISQUALIFIED FROM SIGNING SUCH SUPPLEMENTARY PETITION BY
41 REASON OF HAVING FIRST SIGNED THE PETITION PROVIDED IN SUBDIVISION B OF
42 THIS SECTION.

43 F. SUCH SUPPLEMENTARY PETITION SHALL EITHER SET FORTH THE TEXT OF THE
44 PROPOSED LAW AS FIRST SET FORTH PURSUANT TO SUBDIVISION B OF THIS
45 SECTION OR SET FORTH THE TEXT OF SUCH PROPOSED STATUTE AS AMENDED AND
46 PASSED BY THE LEGISLATURE, PURSUANT TO SUBDIVISION E OF THIS SECTION AND
47 SHALL CONFORM TO THE PROVISIONS OF SUBDIVISION C OF THIS SECTION.

48 G. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION E OF THIS SECTION OR
49 OTHER PROVISION OF THIS CONSTITUTION TO THE CONTRARY, THE GOVERNOR MAY
50 CALL A SPECIAL ELECTION FOR THE SUBMISSION OF SUCH PROPOSED STATUTE
51 BEFORE THE NEXT REGULAR OR GENERAL ELECTION IF A SUPPLEMENTARY PETITION
52 HAS OTHERWISE BEEN DULY FILED AND SUBMITTED TO THE SECRETARY OF STATE
53 PURSUANT TO PROVISIONS OF THIS SECTION.

54 H. AN INDIRECT INITIATIVE MEASURE APPROVED BY A MAJORITY OF THE VOTES
55 THEREON TAKES EFFECT FIVE DAYS AFTER THE DATE OF THE OFFICIAL DECLARA-

1 TION OF THE VOTES BY THE SECRETARY OF STATE UNLESS THE MEASURE PROVIDES
2 OTHERWISE.

3 I. THE LEGISLATURE SHALL PROVIDE THE MANNER IN WHICH SUCH PETITIONS
4 AND SUPPLEMENTARY PETITIONS SHALL BE CIRCULATED, PRESENTED AND CERTI-
5 FIED, AND MEASURES SUBMITTED TO THE ELECTORS.

6 S 4. A. A REFERENDUM IS THE POWER OF THE ELECTORS TO APPROVE OR REJECT
7 LAWS OR PARTS OF LAWS EXCEPT LAWS CALLING ELECTIONS AND LAWS PROVIDING
8 FOR TAX LEVIES OR APPROPRIATIONS NECESSARY FOR MEETING THE USUAL CURRENT
9 EXPENSES OF THE STATE; PROVIDED, HOWEVER, THE EXCEPTION CONTAINED IN
10 THIS SUBDIVISION SHALL NOT BE INTERPRETED OR HELD TO RESTRICT ANY POWERS
11 GRANTED TO THE ELECTORS IN SECTION TWO OR THREE OF THIS ARTICLE.

12 B. A REFERENDUM MEASURE MAY BE PROPOSED BY PRESENTING TO THE SECRETARY
13 OF STATE WITHIN NINETY DAYS AFTER ADJOURNMENT OF THE REGULAR SESSION AT
14 WHICH THE LAW WAS PASSED OR WITHIN NINETY DAYS AFTER ADJOURNMENT OF A
15 SPECIAL OR EXTRAORDINARY SESSION OF THE LEGISLATURE AT WHICH THE LAW WAS
16 PASSED, A PETITION CERTIFIED TO HAVE BEEN SIGNED BY ELECTORS EQUAL IN
17 NUMBER TO FIVE PER CENTUM OF THE VOTES CAST FOR ALL CANDIDATES FOR
18 GOVERNOR AT THE LAST GUBERNATORIAL ELECTION REQUIRING THAT SUCH LAW BE
19 SUBMITTED TO THE ELECTORS AS HEREIN PROVIDED.

20 C. THE SECRETARY OF STATE SHALL THEN SUBMIT THE MEASURES AT THE NEXT
21 GENERAL ELECTION HELD AT LEAST THIRTY-ONE DAYS AFTER IT QUALIFIES OR AT
22 A SPECIAL STATEWIDE ELECTION HELD PRIOR TO THAT GENERAL ELECTION.
23 NOTWITHSTANDING ANY CONSTITUTIONAL OR STATUTORY LIMITATION TO THE
24 CONTRARY, THE GOVERNOR MAY CALL A SPECIAL STATEWIDE ELECTION FOR ANY ONE
25 OR MORE OF SUCH MEASURES.

26 D. (1) A REFERENDUM MEASURE APPROVED BY A MAJORITY OF THE VOTES THER-
27 EON TAKES EFFECT FIVE DAYS AFTER THE DATE OF THE OFFICIAL DECLARATION OF
28 THE VOTES BY THE SECRETARY OF STATE UNLESS THE MEASURE PROVIDES OTHER-
29 WISE.

30 (2) IF PROVISIONS OF TWO OR MORE MEASURES APPROVED AT THE SAME
31 ELECTION CONFLICT, THOSE OF THE MEASURE RECEIVING THE HIGHEST AFFIRMA-
32 TIVE VOTE SHALL PREVAIL.

33 (3) THE LEGISLATURE SHALL PROVIDE THE MANNER IN WHICH PETITIONS SHALL
34 BE CIRCULATED, PRESENTED, AND CERTIFIED, AND MEASURES SUBMITTED TO THE
35 ELECTORS.

36 E. REFERENDUM POWERS MAY BE EXERCISED BY THE ELECTORS OF EACH MUNICI-
37 PALITY TO APPROVE OR REJECT ANY LOCAL LAW OR ORDINANCE CONCERNING THE
38 AFFAIRS OF SUCH MUNICIPALITY PURSUANT TO PROCEDURES WHICH THE LEGISLA-
39 TURE OF THIS STATE SHALL ENACT; EXCEPT A LOCAL LAW OR ORDINANCE CALLING
40 AN ELECTION OR A LOCAL LAW OR ORDINANCE PROVIDING FOR TAX LEVIES OR
41 APPROPRIATIONS NECESSARY FOR MEETING THE USUAL CURRENT EXPENSES OF SUCH
42 MUNICIPALITY; PROVIDED, HOWEVER, THE EXCEPTION CONTAINED IN THIS SUBDI-
43 VISION SHALL NOT BE INTERPRETED OR HELD TO RESTRICT ANY POWERS GRANTED
44 TO THE ELECTORS IN SECTION TWO OR THREE OF THIS ARTICLE.

45 S 5. THE FAILURE OF THE LEGISLATURE TO PROVIDE THE MANNER IN WHICH
46 PETITIONS FOR INITIATIVE, INDIRECT INITIATIVE OR REFERENDUM PETITIONS
47 SHALL BE CIRCULATED, PRESENTED, CERTIFIED AND SUCH PROPOSED MEASURES
48 SUBMITTED TO THE ELECTORS SHALL NOT PRECLUDE THE ELECTORS FROM CIRCULAT-
49 ING SUCH PETITIONS AND SHALL NOT PRECLUDE THE SECRETARY OF STATE OR THE
50 ATTORNEY GENERAL FROM PERFORMING THE DUTIES ENJOINED UPON THEM BY THIS
51 ARTICLE WHICH SHALL BE SELF-EXECUTING UNDER SUCH A CIRCUMSTANCE.

52 S 6. NOTWITHSTANDING ANY CONTRARY PROVISIONS OF THIS ARTICLE AND UPON
53 ALL INITIATIVE, INDIRECT INITIATIVE, SUPPLEMENTARY AND REFERENDUM
54 PETITIONS PROVIDED FOR IN THIS ARTICLE, OTHER THAN INITIATIVE AND REFER-
55 ENDUM IN CITIES, TOWNS, VILLAGES AND COUNTIES, IT SHALL BE ADDITIONALLY
56 NECESSARY TO FILE FROM EACH OF ONE-HALF OF THE COUNTIES OF THE STATE,

1 SUCH PETITIONS BEARING THE SIGNATURES OF NOT LESS THAN ONE-HALF OF THE
2 DESIGNATED PERCENTAGE OF THE ELECTORS OF SUCH COUNTIES.

3 S 7. A. THE PROVISIONS OF SECTION SEVEN OF ARTICLE FOUR OF THIS
4 CONSTITUTION SHALL NOT APPLY TO ANY LAW ENACTED PURSUANT TO ANY OF THE
5 PROVISIONS OF THIS ARTICLE.

6 B. NOTHING CONTAINED IN THIS ARTICLE SHALL RESTRICT THE LEGISLATURE
7 FROM ACTING UPON ANY LAW THAT HAS BEEN SUBJECTED TO A REFERENDUM. THE
8 LEGISLATURE MAY NOT AMEND OR REPEAL AN INITIATIVE, INCLUDING AN INDIRECT
9 INITIATIVE LAW, UNLESS SUCH LAW PERMITS AMENDMENT OR REPEAL SUBJECT TO
10 THE APPROVAL OF THE ELECTORS OR WITHOUT THE APPROVAL OF THE ELECTORS.

11 S 8. A. THE ATTORNEY GENERAL SHALL PREPARE THE TITLE AND SUMMARY OF
12 EACH INITIATIVE, INDIRECT INITIATIVE OR REFERENDUM WITHIN TWENTY DAYS
13 AFTER IT IS SUBMITTED TO HIM OR HER AND THE FAILURE OF THE ATTORNEY
14 GENERAL TO PREPARE SUCH TITLE AND SUMMARY OF EACH INITIATIVE, INDIRECT
15 INITIATIVE OR REFERENDUM PETITION OR TO TIMELY DO SO SHALL NOT AFFECT
16 THE VALIDITY OF SUCH INITIATIVE REFERENDUM OR INDIRECT INITIATIVE PETI-
17 TION OR THE ACTION OF THE ELECTORS THEREON.

18 B. IF THE ATTORNEY GENERAL SHALL FAIL TO PREPARE THE TITLE AND SUMMARY
19 OF EACH INITIATIVE, INDIRECT INITIATIVE OR REFERENDUM PETITION OR TO
20 TIMELY DO SO, THEN SUCH TITLE AND SUMMARY SHALL BE PREPARED BY THE
21 SECRETARY OF STATE IN TIME FOR SUBMISSION OF THE SAME TO THE ELECTORS AT
22 THE NEXT GENERAL ELECTION OR SPECIAL STATEWIDE ELECTION CALLED BY THE
23 GOVERNOR FOR SUCH MEASURE OR MEASURES.

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