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I N   S E N A T E

June 9, 2016

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

CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY

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

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. ANY STATE OR LOCAL OFFICER MAY BE RECALLED. THESE INCLUDE  
7     THE OFFICES OF GOVERNOR, LIEUTENANT GOVERNOR, COMPTROLLER, ATTORNEY  
8     GENERAL, STATE LEGISLATORS, COUNTY EXECUTIVES, MAYORS, AND TOWN SUPERVI-  
9     SORS. A STATE OR LOCAL OFFICER APPOINTED IN LIEU OF ELECTION OR TO FILL  
10    A VACANCY IN ONE OF THESE OFFICES MAY ALSO BE RECALLED.

11    S 2. RECALL OF A STATE OR LOCAL OFFICER IS INITIATED BY DELIVERING TO  
12    THE STATE BOARD OF ELECTIONS A PETITION ALLEGING REASONS FOR RECALL. A  
13    RECALL PETITION MUST STATE CLEARLY AND FACTUALLY THE REASON FOR THE  
14    RECALL BASED CONDUCT DURING THE OFFICER'S TERM OF OFFICE. SUFFICIENT  
15    REASON FOR RECALL SHALL BE ESTABLISHED IN THE CASE OF A STATE OR LOCAL  
16    OFFICER WHO HAS BEEN INDICTED FOR A FELONY RELATED TO PUBLIC OFFICE, OR  
17    CONVICTED OF A MISDEMEANOR RELATED TO PUBLIC OFFICE. NO PERSON MAY BE  
18    RECALLED FOR PERFORMING A MANDATORY DUTY OF THE OFFICE HE OR SHE HOLDS  
19    OR FOR NOT PERFORMING ANY ACT THAT, IF PERFORMED, WOULD SUBJECT HIM OR  
20    HER TO PROSECUTION FOR OFFICIAL MISCONDUCT. THE LEGISLATURE SHALL ENACT  
21    LEGISLATION TO IMPLEMENT THIS SECTION TAKING INTO ACCOUNT INTERESTS OF  
22    JUSTICE. PROPONENTS HAVE NINETY DAYS TO FILE SIGNED PETITIONS.

23    S 3. A PETITION TO RECALL A STATEWIDE OFFICER MUST BE SIGNED BY ELEC-  
24    TORS EQUAL IN NUMBER TO FIFTEEN PERCENT OF THE VOTES CAST IN THE LAST  
25    ELECTION FOR THE OFFICE WITH SIGNATURES IN EACH OF THE TWENTY-SEVEN  
26    CONGRESSIONAL DISTRICTS EQUAL IN NUMBER TO FIVE PERCENT OF THE LAST VOTE  
27    FOR THE OFFICE IN THE DISTRICT. A PETITION TO RECALL SENATORS AND  
28    MEMBERS OF THE ASSEMBLY MUST BE SIGNED BY ELECTORS IN THE DISTRICT EQUAL  
29    IN NUMBER TO TWENTY PERCENT OF THE LAST VOTE FOR THE OFFICE. A PETITION

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

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1 TO RECALL A LOCAL OFFICER MUST BE SIGNED BY ELECTORS IN THE DISTRICT  
2 EQUAL IN NUMBER TO THIRTY PERCENT OF THE LAST VOTE FOR THE OFFICE.

3 S 4. THE STATE BOARD OF ELECTIONS SHALL MAINTAIN A CONTINUOUS COUNT OF  
4 THE SIGNATURES CERTIFIED TO SUCH OFFICE.

5 S 5. AN ELECTION TO DETERMINE WHETHER TO RECALL AN OFFICER AND, IF  
6 APPROPRIATE, TO ELECT A SUCCESSOR SHALL BE CALLED BY THE GOVERNOR AND  
7 HELD NOT LESS THAN SIXTY DAYS NOR MORE THAN EIGHTY DAYS FROM THE DATE OF  
8 CERTIFICATION OF SUFFICIENT SIGNATURES.

9 S 6. A RECALL ELECTION MAY BE CONDUCTED WITHIN ONE HUNDRED EIGHTY DAYS  
10 FROM THE DATE OF CERTIFICATION OF SUFFICIENT SIGNATURES IN ORDER THAT  
11 THE ELECTION MAY BE CONSOLIDATED WITH THE NEXT REGULARLY SCHEDULED  
12 ELECTION OCCURRING WHOLLY OR PARTIALLY WITHIN THE SAME JURISDICTION IN  
13 WHICH THE RECALL ELECTION IS HELD, IF THE NUMBER OF VOTERS ELIGIBLE TO  
14 VOTE AT THAT NEXT REGULARLY SCHEDULED ELECTION EQUALS AT LEAST FIFTY  
15 PERCENT OF ALL VOTERS ELIGIBLE TO VOTE AT THE RECALL ELECTION.

16 S 7. IF THE MAJORITY VOTE ON THE QUESTION IS TO RECALL, THE OFFICER  
17 SHALL BE REMOVED AND A SPECIAL ELECTION SHALL BE CALLED BY THE GOVERNOR.  
18 A SPECIAL ELECTION SHALL NOT BE CALLED WITHIN ONE HUNDRED EIGHTY DAYS OF  
19 A GENERAL ELECTION FOR THE OFFICE. THE CANDIDATE WHO RECEIVES A PLURAL-  
20 ITY IS THE SUCCESSOR. THE OFFICER MAY NOT BE A CANDIDATE.

21 S 8. THE LEGISLATURE SHALL PROVIDE FOR CIRCULATION FILING, AND CERTIF-  
22 ICATION OF PETITIONS, NOMINATIONS OF CANDIDATES, AND RECALL ELECTION  
23 PROCEDURES.

24 S 9. IF THE RECALL OF THE GOVERNOR OR SECRETARY OF STATE IS INITIATED,  
25 THE RECALL DUTIES OF THAT OFFICE SHALL BE PERFORMED BY THE LIEUTENANT  
26 GOVERNOR OR COMPTROLLER, RESPECTIVELY.

27 S 10. COUNTIES, CITIES, TOWNS AND VILLAGES MAY PROVIDE FOR ADDITIONAL  
28 GROUNDS FOR RECALLS.

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