

STATE OF NEW YORK

4770--A

2017-2018 Regular Sessions

IN ASSEMBLY

February 3, 2017

Introduced by M. of A. KOLB, RAIA, GIGLIO, LOPEZ, PALMESANO, MONTESANO
-- Multi-Sponsored by -- M. of A. HAWLEY, McLAUGHLIN -- read once and
referred to the Committee on Judiciary -- committee discharged, bill
amended, ordered reprinted as amended and recommitted to said commit-
tee

CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY

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

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

ARTICLE XX

INITIATIVE AND REFERENDUM AND RECALL

Section 1. 1. The initiative is the power of the electors to propose
statutes and amendments to the constitution and to adopt or reject them.

2. An initiative measure may be proposed by presenting to the secre-
tary of state a petition that sets forth the text of the proposed stat-
ute or amendment to the constitution and is certified to have been
signed by electors equal in number to five percent in the case of a
statute, and eight percent in the case of an amendment to the constitu-
tion, of the votes for all candidates for governor at the last guberna-
torial election.

3. The secretary of state shall then submit the measure at the next
general election held at least one hundred thirty-one days after it
qualifies or at any special statewide election held prior to that gener-
al election. The governor may call a special statewide election for the
measure.

4. An initiative measure embracing more than one subject may not be
submitted to the electors or have any effect.

5. An initiative measure shall not include or exclude any political
subdivision of the state from the application or effect of its
provisions based upon approval or disapproval of the initiative measure,

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

LBD89038-03-7

1 or based upon the casting of a specified percentage of votes in favor of
2 the measure, by the electors of that political subdivision.

3 6. An initiative measure shall not contain alternative or cumulative
4 provisions wherein one or more of those provisions would become law
5 depending upon the casting of a specified percentage of votes for or
6 against the measure.

7 § 2. 1. The referendum is the power of the electors to approve or
8 reject statutes or parts of statutes except statutes calling elections
9 and statutes providing for tax levies or appropriations for usual
10 current expenses of the state.

11 2. A referendum measure may be proposed by presenting to the secretary
12 of state, within ninety days after the effective date of the statute, a
13 petition certified to have been signed by electors equal in number to
14 five percent of the votes for all candidates for governor at the last
15 gubernatorial election, asking that the statute or part of it be submit-
16 ted to the electors. In the case of a statute enacted by a bill passed
17 by the legislature on or before the date the legislature adjourns in the
18 second calendar year of the biennium of the legislative session, and in
19 the possession of the governor after that date, the petition may not be
20 presented on or after January first next following the effective date
21 unless a copy of the petition is submitted to the attorney general
22 pursuant to subdivision four of section three of this article before
23 January first.

24 3. The secretary of state shall then submit the measure at the next
25 general election held at least thirty-one days after it qualifies or at
26 a special statewide election held prior to that general election. The
27 governor may call a special statewide election for the measure.

28 § 3. 1. An initiative statute or referendum approved by a majority of
29 votes thereon takes effect the day after the election unless the measure
30 provides otherwise. If a referendum petition is filed against a part of
31 a statute the remainder shall not be delayed from going into effect.

32 2. If provisions of two or more measures approved at the same election
33 conflict, those of the measure receiving the highest affirmative vote
34 shall prevail.

35 3. The legislature may amend or repeal referendum statutes. It may
36 amend or repeal an initiative statute by another statute that becomes
37 effective only when approved by the electors unless the initiative stat-
38 ute permits amendment or repeal without their approval.

39 4. Prior to circulation of an initiative or referendum petition for
40 signatures, a copy shall be submitted to the attorney general who shall
41 prepare a title and summary of the measure as provided by law.

42 5. The legislature shall provide the manner in which petitions shall
43 be circulated, presented, and certified, and measures submitted to the
44 electors.

45 § 4. 1. Initiative and referendum powers may be exercised by the elec-
46 tors of each city or county under procedures that the legislature shall
47 provide. Except as provided in subdivisions two and three of this
48 section, this section does not affect a city having a charter.

49 2. A city or county initiative measure shall not include or exclude
50 any part of the city or county from the application or effect of its
51 provisions based upon approval or disapproval of the initiative measure,
52 or based upon the casting of a specified percentage of votes in favor of
53 the measure, by the electors of the city or county or any part thereof.

54 3. A city or county initiative measure shall not contain alternative
55 or cumulative provisions wherein one or more of those provisions would

1 become law depending upon the casting of a specified percentage of votes
2 for or against the measure.

3 § 5. No amendment to the constitution, and no statute proposed to the
4 electors by the legislature or by initiative, that names any individual
5 to hold any office, or names or identifies any private corporation to
6 perform any function or to have any power or duty, may be submitted to
7 the electors or have any effect.

8 § 6. Recall is the power of the electors to remove an elective offi-
9 cer.

10 § 7. 1. Recall of a state officer is initiated by delivering to the
11 secretary of state a petition alleging reason for recall. Sufficiency of
12 reason is not reviewable. Proponents have one hundred sixty days to file
13 signed petitions.

14 2. A petition to recall a statewide officer must be signed by electors
15 equal in number to twelve percent of the last vote for the office, with
16 signatures from each of five counties equal in number to one percent of
17 the last vote for the office in the county. Signatures to recall
18 senators, members of the assembly, and judges of supreme courts and
19 trial courts must equal in number twenty percent of the last vote for
20 the office.

21 3. The secretary of state shall maintain a continuous count of the
22 signatures certified to that office.

23 § 8. 1. An election to determine whether to recall an officer and, if
24 appropriate, to elect a successor shall be called by the governor and
25 held not less than sixty days nor more than eighty days from the date of
26 certification of sufficient signatures.

27 2. A recall election may be conducted within one hundred eighty days
28 from the date of certification of sufficient signatures in order that
29 the election may be consolidated with the next regularly scheduled
30 election occurring wholly or partially within the same jurisdiction in
31 which the recall election is held, if the number of voters eligible to
32 vote at that next regularly scheduled election equal at least fifty
33 percent of all the voters eligible to vote at the recall election.

34 3. If the majority vote on the question is to recall, the officer is
35 removed and, if there is a candidate, the candidate who receives a
36 plurality is the successor. The officer may not be a candidate, nor
37 shall there be any candidacy for an office filed pursuant to section two
38 of article six.

39 § 9. The legislature shall provide for circulation, filing, and
40 certification of petitions, nomination of candidates, and the recall
41 election.

42 § 10. If recall of the governor or secretary of state is initiated,
43 the recall duties of that office shall be performed by the lieutenant
44 governor or comptroller, respectively.

45 § 11. A state officer who is not recalled shall be reimbursed by the
46 state for the officer's recall election expenses legally and personally
47 incurred. Another recall may not be initiated against the officer until
48 six months after the election.

49 § 12. The legislature shall provide for recall of local officers. This
50 section does not affect counties and cities whose charters provide for
51 recall.

52 § 2. Resolved (if the Senate concur), That the foregoing amendment be
53 referred to the first regular legislative session convening after the
54 next succeeding general election of members of the assembly, and, in
55 conformity with section 1 of article 19 of the constitution, be
56 published for 3 months previous to the time of such election.