STATE OF NEW YORK

2813

2017-2018 Regular Sessions

IN ASSEMBLY

January 23, 2017

Introduced by M. of A. KOLB, HAWLEY, OAKS, DiPIETRO, STEC, GIGLIO -- Multi-Sponsored by -- M. of A. CROUCH -- read once and referred to the Committee on Election Law

AN ACT to amend the election law and the public officers law, in relation to the delegate selection process for a constitutional convention

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Short title. This act shall be known and may be cited as the "People's Convention Reform Act".

§ 2. Legislative findings and declaration. The legislature hereby finds that it is only at constitutional conventions that ordinary citizens have the opportunity to reconsider the fundamental structure of state government and to assess its effectiveness in light of the current social, economic and political conditions of the day. In providing for periodic constitutional conventions, the framers of our current document acknowledged the need to have a dynamic, living and breathing statement of how government should operate and what limits or controls it should have on our individual pursuit of life, liberty and happiness.

Unfortunately the last two constitutional conventions were dominated by the politically connected (two-thirds of the delegates to the 1938 convention and about 83% of the 1967 delegates were present or former elected or party officials). To ensure the success of future conventions, we must limit the participation of elected and party officials so that the conventions can be "People's Conventions" and so the voices of all New Yorkers, not just those of special interests, can be heard.

The legislature further finds and declares, in furtherance of establishing a meaningful convention process, that:

(a) delegates to the convention should be involved and concerned citizens and not elected officials, lobbyists, or party chairmen;

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

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(b) prior to the convening of the convention, and solely as an aid to delegates, there should be appointed a preparatory commission with adequate time to study the issues, establish a proposed initial agenda and procedures, and prepare position papers, with ongoing information to and participation of the public;

(c) insofar as possible, procedures should be established in both the selection of delegates and in the running of the convention that will reduce partisanship; and

(d) reasonable time limits should be placed on the length of the convention and its costs, so as to assure that the operations of the convention are not a burden on taxpayers, and that the convention may enjoy maximum citizen participation.

To ensure that future constitutional conventions are truly People's Conventions, we hereby find and declare that the statutory reforms of the delegate selection process contained in this act must be enacted.

§ 3. Section 1-104 of the election law is amended by adding a new subdivision 38 to read as follows:

38. The term "nonpartisan election" means a primary, general or special election in which candidates shall run without party label, and political parties are prohibited from designating or nominating candidates.

§ 4. The election law is amended by adding a new section 2-128 to read as follows:

§ 2-128. Election of party committee officers as delegates to state constitutional convention. Notwithstanding any other provision of law, in the event that a person serving as chairman, secretary, or treasurer of a state or county committee of a political party is elected to and sworn as a delegate to a state constitutional convention, such person shall be deemed to have resigned from his or her political party position and the provisions of this article for the filling of vacancies in such position shall apply.

§ 5. The election law is amended by adding a new section 6-125 to read as follows:

§ 6-125. Nonpartisan elections of delegates to a constitutional convention. 1. Notwithstanding any other provision of law, all primary elections and general elections for delegates to a constitutional convention pursuant to article XIX of the New York state constitution shall be conducted as nonpartisan elections.

2. Designations for nomination at a nonpartisan primary for delegates to a constitutional convention shall be made in the same manner as currently provided for independent designating petitions. All enrolled voters shall be qualified to sign nonpartisan designating petitions.

3. Notwithstanding the provisions of section 6-136 of this article or any other provision of law, all petitions for the designation for nomination of a constitutional convention delegate from a senate district must be signed by not less than one thousand enrolled voters of such senate district and all petitions for the designation for nomination of a statewide, at-large constitutional convention delegate must be signed by not less than ten thousand enrolled voters of the state, of whom not less than one hundred must reside in each of ten of the congressional districts of the state.

4. The form of the designating petition used to make a designation in a nonpartisan primary shall be substantially in the form prescribed in section 6-132 of this article, except that no reference shall be made to any political party therein.

5. Unless otherwise provided in this section, the sections of law applicable to designating petitions for nonpartisan primary elections shall be those prescribed by this article.

6. All registered voters, regardless of party affiliation or lack thereof, shall be permitted to vote in the nonpartisan primary election for the nomination of candidates for the office of delegate to the constitutional convention. Suitable provisions must be made so that each elector may vote for up to three of any senate district constitutional convention delegate candidates and up to fifteen of any statewide, at-large constitutional convention delegate candidates.

7. Upon the canvass of votes in a nonpartisan primary the nine constitutional convention delegate candidates receiving the highest number of votes in each senate district and the thirty candidates receiving the highest number of votes as statewide, at-large constitutional convention delegates shall be certified as nominated and shall run in the general election held subsequent to the primary without party identification.

8. No candidate for delegate to a constitutional convention shall in any way use or allow himself or herself to be associated with a party label in either the primary or general election.

9. Once a person announces his or her intention to be a candidate for election to the position of delegate to the constitutional convention and until such time as that person is no longer a candidate or until his or her service as a delegate ends, whichever occurs later, such candidate for delegate to a constitutional convention shall not (a) participate in any partisan political party activities, except that such candidate may register to vote as a member of any political party and may vote in any party primary for candidates for nomination of the party in which he or she is registered to vote; (b) campaign or publicly represent or advertise himself or herself as a member of any political party; (c) endorse any candidate or political party; (d) accept the endorsement of any political party; or (e) solicit or accept contributions from any political party committee, political action committee or political committee pursuant to subdivision eleven of section 14-114 of this chapter.

10. Within one hundred eighty days of the effective date of this section, the state board of elections shall promulgate rules and regulations consistent with this section to effectuate the purposes and policies hereof.

§ 6. Section 14-100 of the election law is amended by adding a new subdivision 17 to read as follows:

17. "political action committee" means any committee established, financed, maintained or controlled by any person, group or entity for the purpose of supporting candidates for elected political office and/or other political party or political committees by making contributions to such candidates and/or their political campaign committees or by making contributions to other political party or other political committees, and does not make direct expenditures on behalf of candidates.

§ 7. Section 14-114 of the election law is amended by adding a new subdivision 11 to read as follows:

11. No political party committee, political action committee or political committee shall contribute to any candidate for delegate to a constitutional convention for either the primary or general election. Nor shall any candidate for delegate to a constitutional convention solicit or accept contributions from any political party committee, political action committee or political committee for either the primary or general election.

§ 8. The election law is amended by adding a new article 18 to read as follows:

ARTICLE 18

REGISTRATION AND REPORTS BY CERTAIN PERSONS PROMOTING OR OPPOSING THE ADOPTION OF PROPOSED CONSTITUTIONAL AMENDMENTS BY A CONSTITUTIONAL CONVENTION

Section 18-100. Registration and reports by certain persons promoting or opposing the adoption of proposed constitutional amendments by a constitutional convention.

§ 18-100. Registration and reports by certain persons promoting or opposing the adoption of proposed constitutional amendments by a constitutional convention. 1. Every person retained or employed for compensation by any person, firm, corporation or association who, on behalf of such principal or employer, promotes or opposes directly or indirectly the adoption of a proposed constitutional amendment or amendments by a constitutional convention, whether or not he or she has a personal interest therein, shall, before any service is entered upon in promoting or opposing such proposed constitutional amendment or amendments, file in the office of the secretary of state a writing subscribed by such person stating the name or names of the person or persons, firm or firms, corporation or corporations, association or associations, by whom or on whose behalf he or she is retained or employed, together with a brief description of the proposed constitutional amendment or amendments in reference to which such service is to be rendered.

2. It shall be the duty of the secretary of state to provide a docket to be known as the docket of constitutional convention appearances, with appropriate blanks and indices, and to forthwith enter therein the names of the persons so retained or employed and of the persons, firms, corporations or associations retaining or employing them, together with a brief description of the proposed constitutional amendment or amendments in reference to which the service is to be rendered, which docket shall be open to public inspection.

3. Upon the termination of such retainer or employment the fact of such termination, with the date thereof, shall be entered in the docket by the secretary of state upon receiving written notice to that effect from such person or from the person, firm, corporation or association in whose behalf such service has been rendered.

4. No person retained or employed to promote or oppose, directly or indirectly, the adoption of a proposed constitutional amendment or amendments by a constitutional convention shall be eligible to serve as a delegate to such constitutional convention.

5. No person, firm, corporation or association shall retain or employ any person to promote or oppose any proposed constitutional amendment or amendments for compensation contingent in whole or in part upon the adoption or defeat of any such amendment or amendments by the constitutional convention, and no person shall accept any such employment or render any such service for compensation contingent upon such adoption or defeat.

6. No person shall for compensation engage in promoting or opposing any proposed constitutional amendment or amendments by such constitutional convention except upon appearance entered in accordance with the foregoing provisions of this section.

7. It shall be the duty of every person, firm, corporation, public or private, or association, (whether or not required to file pursuant to the provisions of subdivision one of this section), not later than April

fifteenth, in any year in which a constitutional convention is convened and in which a proposed constitutional amendment or amendments by a constitutional convention is put to the voters, to file in the office of the secretary of state an itemized statement verified by the oath of such person, or in case of a firm by the oath of a member thereof, or in case of a domestic corporation or association by the oath of an officer thereof, or in case of a foreign corporation or association by the oath of an officer or agent thereof, showing in detail all expenses paid, incurred or promised directly or indirectly in each year through the conclusion of the year in which any proposed constitutional amendment or amendments by a constitutional convention have been put to the voters, in connection with promoting or opposing any constitutional amendment or amendments which may be proposed at such constitutional convention, with the names of the payees and the amount paid to each, including all disbursements paid, incurred or promised to persons employed or retained, and also specifying the nature of such constitutional amendment or amendments, and the interest therein of such person, firm, corporation or association; provided, however, no such itemized statement need be filed if the total of such itemized expenses is less than two hundred fifty dollars.

8. The provisions of this section shall not apply to the state nor shall subdivisions one, five and nine of this section apply to a county, city, town, village, public board or institution, or their agents or employees; nor shall the provisions of this section be construed as affecting professional services in drafting a proposed constitutional amendment or amendments or in advising clients or in rendering opinions as to the construction and effect of any constitutional amendment or amendments which may be proposed at such convention where such professional service is not otherwise connected with constitutional convention action.

9. On or before April twenty-fourth in any year in which a constitutional convention is convened, the secretary of state shall furnish to each delegate to such convention a summary of the information contained in the docket of constitutional convention appearances, and on or before such date shall also transmit to the president of such constitutional convention a copy of every statement filed in his or her office up to and including such date pursuant to subdivision six of this section.

10. Every person, every member of any firm, and every association or corporation violating any provision of this section and every person causing or participating in a violation thereof shall be guilty of a misdemeanor and, in case of an individual, shall be punishable by imprisonment in a penitentiary or county jail for not more than one year or by a fine of not more than one thousand dollars or by both, and, in case of an association or corporation, by a fine of not more than one thousand dollars. In addition to the penalties hereinbefore imposed any corporation or association failing to file the statement of expenses prescribed by this section shall forfeit to the people of the state of New York the sum of one hundred dollars per day for each day following the expiration of thirty days after the time fixed by subdivision six of this section for filing such statement, to be recovered in an action to be brought by the attorney general.

§ 9. Section 30 of the public officers law is amended by adding a new subdivision 1-a to read as follows:

1-a. Whenever any state or local officer, as those terms are defined in section two of this chapter, is elected and sworn as a delegate to a state constitutional convention, such official will be deemed to have

vacated his or her state or local office and the said office will be deemed vacant for purposes of the nomination and appointment of a successor.

§ 10. No later than 180 days prior to the convening of the constitutional convention, and solely as an aid to delegates, there shall be appointed a constitutional convention preparatory commission whose purpose shall be to study the issues, establish a proposed initial agenda and procedures, and prepare position papers, with ongoing information to and participation of the public. Members of the commission shall be appointed as follows: two each by the governor, the majority leader of the senate and the speaker of the assembly, and one each by the minority leader of the senate and the minority leader of the assembly. The members shall elect a chair.

§ 11. Severability. If any provision of this act, or the application thereof to any person or circumstance, shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the provision of this act, or in its application to the person or circumstance, directly involved in the controversy in which such judgment shall have been rendered.

§ 12. This act shall take effect immediately.