

# 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

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

#### ARTICLE XX

#### INITIATIVE AND REFERENDUM AND RECALL

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

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

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

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

22 5. An initiative measure shall not include or exclude any political  
23 subdivision of the state from the application or effect of its  
24 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.

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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.