STATE OF NEW YORK

1258

2019-2020 Regular Sessions

IN SENATE

January 11, 2019

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

CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY

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

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

ARTICLE XX

RECALL

Section 1. Any state or local officer may be recalled. These include the offices of governor, lieutenant governor, comptroller, attorney general, state legislators, county executives, mayors, and town supervisors. A state or local officer appointed in lieu of election or to fill a vacancy in one of these offices may also be recalled.

§ 2. Recall of a state or local officer is initiated by delivering to the state board of elections a petition alleging reasons for recall. A recall petition must state clearly and factually the reason for the recall based conduct during the officer's term of office. Sufficient reason for recall shall be established in the case of a state or local officer who has been indicted for a felony related to public office, or convicted of a misdemeanor related to public office. No person may be recalled for performing a mandatory duty of the office he or she holds or for not performing any act that, if performed, would subject him or her to prosecution for official misconduct. The legislature shall enact legislation to implement this section taking into account interests of justice. Proponents have ninety days to file signed petitions.

§ 3. A petition to recall a statewide officer must be signed by electors equal in number to fifteen percent of the votes cast in the last election for the office with signatures in each of the twenty-seven congressional districts equal in number to five percent of the last vote for the office in the district. A petition to recall senators and

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

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members of the assembly must be signed by electors in the district equal in number to twenty percent of the last vote for the office. A petition to recall a local officer must be signed by electors in the district equal in number to thirty percent of the last vote for the office.

§ 4. The state board of elections shall maintain a continuous count of the signatures certified to such office.

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

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

§ 7. If the majority vote on the question is to recall, the officer shall be removed and a special election shall be called by the Governor. A special election shall not be called within one hundred eighty days of a general election for the office. The candidate who receives a plurality is the successor. The officer may not be a candidate.

§ 8. The legislature shall provide for circulation filing, and certification of petitions, nominations of candidates, and recall election procedures.

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

§ 10. Counties, cities, towns and villages may provide for additional grounds for recalls.

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