

**ASSEMBLY CONCURRENT
RESOLUTION No. 170**

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED MAY 4, 2020

Sponsored by:

Assemblyman PARKER SPACE

District 24 (Morris, Sussex and Warren)

Assemblyman HAROLD "HAL" J. WIRTHS

District 24 (Morris, Sussex and Warren)

SYNOPSIS

Proposes constitutional amendment to establish initiative process for limited purpose of overturning New Jersey Supreme Court decisions and repealing statutes.

CURRENT VERSION OF TEXT

As introduced.



1 **A CONCURRENT RESOLUTION** proposing to amend Article II of the
2 New Jersey Constitution by adding a new section.

3
4 **BE IT RESOLVED** *by the General Assembly of the State of New*
5 *Jersey (the Senate concurring):*

6
7 1. The following proposed amendment to the Constitution of
8 the State of New Jersey is hereby agreed to:

9
10 PROPOSED AMENDMENT

11
12 a. Amend the Title of Article II as follows:

13
14 ARTICLE II
15 ELECTIONS **[AND]**, SUFFRAGE, AND INITIATIVE

16
17 b. Amend Article II by the addition of a new Section III,
18 paragraph 1 to read as follows:

19 SECTION III

20
21 1. a. Any decision of the New Jersey Supreme Court may be
22 the subject of a referendum held at the initiative of the people.
23 Upon securing on a petition not fewer than 100,000 signatures of
24 citizens and residents of this State, certified by such administrative
25 official as shall be designated by the Governor for such purposes, a
26 question shall be placed upon the ballot reading, “Shall the decision
27 of the New Jersey Supreme Court in the matter of (name of case) be
28 reversed?”. An explanatory statement that describes the decision
29 shall accompany the question. In the event that a plurality of the
30 persons casting a ballot on such question, at a general election held
31 not fewer than sixty days after the petition is certified, shall cast
32 their ballots in the affirmative, the decision of the Supreme Court
33 shall be of no force or effect whatsoever and the law shall be as it
34 was prior to the decision. In the event that the decision of the
35 Supreme Court affirmed a decision by a lower court, that court’s
36 decision also shall be void.

37 b. (1) Any statute enacted by the Legislature may be repealed
38 by the people in the same manner as described above. The question
39 on the ballot shall be “Shall (citation of the statute) be repealed?”.
40 An explanatory statement shall accompany the question on the
41 statute. In the event that a plurality of the persons casting a ballot
42 on such question, at a general election held not less than sixty days
43 after the petition is certified, shall cast their ballots in the
44 affirmative, the statute shall be of no force or effect whatsoever and
45 the law shall be as it was prior to the enactment of the statute.

 EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

 Matter underlined thus is new matter.

1 In the event that the statute so repealed is a tax or fee increase,
2 the effect shall be retroactive to the date of the enactment of the
3 statute, or the enactment of the annual appropriations act next
4 preceding the referendum, whichever is later, and the Governor
5 shall immediately sequester funds in the amount necessary to offset
6 the loss of revenue.

7 No other revenue enhancing measure of any kind shall be
8 enacted for six months after a tax or fee increase is so repealed.
9 The Legislature shall not pass any measure substantially similar to
10 that repealed by the people until an election for the Senate shall
11 have intervened.

12 (2) Any person may challenge, in a court of competent
13 jurisdiction, a revenue enhancing measure that is enacted within six
14 months after a tax or fee increase is so repealed, or a statute enacted
15 prior to an intervening Senate election that is substantially similar
16 to a statute that has been repealed by the people, and shall, if
17 successful, and in addition to all equitable or legal relief available,
18 be entitled to recover all reasonable legal fees incurred in the
19 challenge and such sum equal to the fee shall be deducted equally
20 up to the amount of the staff allotment during one legislative term
21 of every member of the Legislature who voted in favor of such
22 statute, but not in excess thereof, and the deduction shall not be
23 compensated for in any other manner.

24
25 2. When this proposed amendment to the Constitution is finally
26 agreed to pursuant to Article IX, paragraph 1 of the Constitution, it
27 shall be submitted to the people at the next general election
28 occurring more than three months after the final agreement and
29 shall be published at least once in at least one newspaper of each
30 county designated by the President of the Senate, the Speaker of the
31 General Assembly and the Attorney General, not less than three
32 months prior to the general election.

33
34 3. This proposed amendment to the Constitution shall be
35 submitted to the people at that election in the following manner and
36 form:

37 There shall be printed on each official ballot to be used at the
38 general election, the following:

39 a. In every municipality in which voting machines are not used,
40 a legend which shall immediately precede the question as follows:

41 If you favor the proposition printed below make a cross (X), plus
42 (+), or check (✓) in the square opposite the word "Yes." If you are
43 opposed thereto make a cross (X), plus (+) or check (✓) in the
44 square opposite the word "No."

45 b. In every municipality the following question:

	YES	<p>CONSTITUTIONAL AMENDMENT TO ALLOW VOTERS TO OVERTURN CERTAIN COURT DECISIONS AND REPEAL LAWS</p> <p>Do you approve amending the State Constitution to allow the voters to overturn decisions of the New Jersey Supreme Court?</p> <p>The amendment would also allow voters to repeal State statutes.</p>
	NO	<p>INTERPRETIVE STATEMENT</p> <p>This constitutional amendment would allow citizens to initiate questions to be placed on the ballot for two limited purposes. One purpose would be to ask the voters if they want to reverse a decision of the New Jersey Supreme Court. The second purpose would be to ask the voters if they want to repeal a State statute.</p> <p>A question would be placed on the ballot at a general election when a petition signed by at least 100,000 citizens and residents of the State is submitted.</p> <p>When a statute that increases a tax or fee is repealed by the voters, it could not be passed again by the Legislature until after the next Senate election. Also, no new tax or fee statute of any kind could be enacted for six months after the repeal.</p> <p>Any person may challenge in court a revenue enhancing measure enacted within six months after a tax or fee increase is repealed by the people. Also, any person may challenge in court a statute enacted prior to an intervening Senate election that is substantially similar to a statute that has been repealed by the people. If a person is successful in court, that person would be entitled to legal fees. These legal fees would be taken during one legislative term from the money allotted for the staff to every member of the Legislature who voted for that statute.</p>

STATEMENT

This constitutional amendment would establish a process to enable voters to reverse a decision of the New Jersey Supreme Court or to repeal a State statute. The question of reversing a Supreme Court decision or repealing a statute would be placed on the ballot at a general election upon the submission of a petition containing at least 100,000 signatures.

A statute increasing a tax or fee that is repealed by the voters could not be passed again by the Legislature until after an intervening Senate election. No other revenue enhancing measure of any kind could be enacted for six months after a tax or fee increase is repealed.

Any person could challenge in court a revenue enhancing measure enacted within six months after a tax or fee increase is repealed by the people. Also, any person may challenge in court a statute enacted prior to an intervening Senate election that is substantially similar to a statute that has been repealed by the people. A person who successfully challenges such a statute would be entitled to legal fees, which would be deducted from the staff allotment during one legislative term of every member of the Legislature who voted for that statute.