ASSEMBLY CONCURRENT RESOLUTION No. 198

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED NOVEMBER 16, 2020

Sponsored by:
Assemblyman HAROLD "HAL" J. WIRTHS
District 24 (Morris, Sussex and Warren)
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SYNOPSIS

Proposes constitutional amendment to provide for enactment of laws concerning property tax reform, campaign finance, lobbying, government ethics, and elections procedure by Statewide initiative and referendum.

CURRENT VERSION OF TEXT

As introduced.

A CONCURRENT RESOLUTION proposing to amend Article I, paragraph 2 and Article II of the Constitution of the State of New Jersey.

WHEREAS, The republican form of government affords the surest means by which the people, having established the state for their protection, may subordinate the government's power to the will of the people; and

WHEREAS, The will of the people will achieves its most eloquent expression in the election, at regular intervals, of public officers to have responsibility for enacting that will as law and for implementing that law through proper regulation and enforcement; and

WHEREAS, Our Constitution further provides for popular control over the power of the State through its guarantee of the right of the people, in time of election and at any other time, to speak freely, to assemble peaceably, and to petition the government for redress of their grievances; and

WHEREAS, The preservation of effective popular sovereignty is essential to the just and healthy functioning of our political system, and is threatened when special, narrow interests exercise undue influence, sometimes out of public view, upon the electoral process or upon the determination and execution of public policy; and

WHEREAS, It is a paradox that certain ills which frustrate the declared and evident purposes for which republican government is ordained have no ready remedy in the normal operation of the principal mechanisms of the government; and

WHEREAS, Among these ills are: escalating property taxes; exposure of the electoral process to financial influences serving narrow interests not in harmony with those of the public at large; inadequate control of and publicity for the activities of those who lobby the legislative and executive branches of government; inadequate constraints upon conflicts of interest among public officers; and deficient provision for fairness and openness in the conduct of the electoral process; now, therefore,

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

The following proposed amendment to the Constitution of the State of New Jersey is hereby agreed to:

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 <u>thus</u> is new matter.

PROPOSED AMENDMENT

a. Amend Article I, paragraph 2 as follows:

2. a. All political power is inherent in the people. Government is instituted for the protection, security, and benefit of the people, and they have the right at all times to alter or reform the same, whenever the public good may require it.

b. The people reserve unto themselves the power to recall, after at least one year of service, any elected official in this State or representing this State in the United States Congress. The Legislature shall enact laws to provide for such recall elections. Any such laws shall include a provision that a recall election shall be held upon petition of at least 25% of the registered voters in the electoral district of the official sought to be recalled. If legislation to implement this constitutional amendment is not enacted within one year of the adoption of the amendment, the Secretary of State shall, by regulation, implement the constitutional amendment, except that regulations adopted by the Secretary of State shall be superseded by any subsequent legislation consistent with this constitutional amendment governing recall elections. The sufficiency of any statement of reasons or grounds procedurally required shall be a political rather than a judicial question.

c. The people reserve unto themselves the power of initiative to propose to the Legislature laws, that may include such provisions as may be reasonably necessary for their implementation and enforcement, to provide for property tax reform; to regulate the financing of campaigns in support of or opposition to the nomination, election, or defeat of a candidate for elective public office, or the recall from an office of the person holding that office, or in support of or opposition to the passage or defeat of a public question; or to regulate the practice of influencing or attempting to influence the proposal, consideration, or passage or adoption of legislation by public bodies, or the proposal, consideration, or adoption of rules and regulations by public bodies and officers; or to establish rules of ethics for public officials; or to govern the conduct of the electoral process; and to approve or reject the same at the polls in a general election if substantially similar legislation is not enacted by the Legislature and the Governor, within a period to be established by law but not exceeding six months from the date of submission to the Legislature of the initiative petition proposing that law. The determination of whether legislation enacted by the Legislature and the Governor is substantially similar to a law proposed by an initiative petition hereunder shall be made by sponsors of the petition in accordance with the procedures the Legislature shall provide by general law.

The people also reserve unto themselves the power of referendum to propose to the Legislature the repeal of any law, or any section or part thereof, embracing any of the subjects specified in this

subparagraph, and to approve or reject the repeal at the polls in a general election if the repeal is not enacted by the Legislature and the Governor, within a period to be established by law but not exceeding six months from the date of submission to the Legislature of the referendum petition proposing that repeal.

(cf: Art.I, par.2, amended effective January 1, 1994)

b. Amend the Title of Article II as follows:

ARTICLE II

ELECTIONS [AND], SUFFRAGE AND INITIATIVE AND REFERENDUM

c. Amend Article II by the addition of new Section III as follows:

SECTION III

1. (a) The number of signatures of registered voters required upon an initiative petition proposing a law of enactment under subparagraph c. of paragraph 2 of Article I of this Constitution, or a referendum petition proposing a public question effecting repeal under that subparagraph, in order for that petition to be submitted to the Legislature shall be equal to at least eight percent of the number of votes cast for the office of Governor in the State in the gubernatorial election preceding certification of the petition for circulation as shall be provided by law.

(b) Before an initiative petition or referendum petition is submitted to the Legislature, petitioners shall file the petition with the Secretary of State, who shall within 60 days after that filing determine whether the petition includes sufficient numbers of signatures of registered voters as required under subparagraph (a) of this paragraph. The Secretary of State may employ random sampling techniques, meeting ordinary professional standards of statistical reliability, as the Legislature may provide by law or, in the absence of these provisions, as the Secretary of State shall find to be effective and convenient. If, on or before the 60th day following the filing, the Secretary of State determines that sufficient numbers of signatures so required to be included on the petition shall not have been obtained, that petition shall be deemed void and without effect. Otherwise, the petition shall be deemed eligible for submission to the Legislature.

(c) An initiative or referendum petition which is not filed with the Secretary of State as required under subparagraph (b) of this paragraph within the period following the certification thereof for circulation as may be established by law but not less than one year shall be void and without effect.

2. No law proposed by an initiative petition which was enacted by a vote of the people, nor any law enacted by the Legislature and the Governor in response to a petition, shall be amended, repealed, superseded, nullified, or suspended, and no law which is repealed as a result of a referendum shall be reenacted, by the Legislature for a

period of two years except by a vote of three-fourths of all the members of each House, or for a period of three years after the two-year period except by a vote of three-fifths of all the members of each House, after at least 20 calendar days shall have elapsed following the introduction of a bill to amend, repeal, supersede, nullify, suspend, or reenact, as the case may be, and a public hearing has been held thereon.

3. If, at a general election, a law proposed by an initiative petition is not approved or a law whose continuance is the subject of a public question proposed by a referendum petition is not rejected, neither the proposed law nor the public question concerning the law which was the subject of the referendum petition, nor one to effect the same or substantially the same change shall be submitted to the people before the third general election thereafter.

4. (a) Prior to the submission to the voters of a law of enactment proposed by an initiative petition or a law of repeal proposed by a referendum petition, a party may seek a declaratory judgment of the Supreme Court that the proposed law of enactment or repeal (1) would be invalid under the Constitution or laws of the United States, or (2) cannot be enacted or given effect as legislation under this State Constitution, if the pleading requesting the judgment is filed with the Supreme Court not later than the 90th day following the submission of the petition to the Legislature. This action shall be heard and decided, and appropriate relief granted, with all due expedition, but in no case later than six months following that submission.

(b) A law submitted to the people by initiative petition and approved by the people shall not be held unconstitutional or void on account of the insufficient number of signatures on the petition by which the submission of the same was procured, nor shall the repeal of any law, or section or part thereof, resulting from a referendum be held invalid for the same insufficiency.

5. If a public question on the continuance of a law is presented in a form other than a law of repeal and the repeal of that law is effected, the latter shall be deemed repealed at the time specified in subparagraph (b) of paragraph 6 of this section.

6. (a) A law proposed by an initiative petition or referendum petition shall begin in the following style: "Be it enacted by the People of the State of New Jersey."

(b) Any law proposed by an initiative petition and the repeal of any law whose continuance is the subject of a public question proposed by a referendum petition shall become effective on the date provided by that proposed law or by that public question, or if no date is so provided, then upon the 30th day following enactment or approval of the law proposed by an initiative petition or following the rejection of a law as a result of a referendum.

7. The Secretary of State shall cause a law proposed by an initiative petition or a public question proposed by a referendum

petition which is to be submitted to the people to be published at least once in one or more newspapers of each county, if any be published therein, not less than 60 days prior to that submission to the people.

8. (a) If conflicting laws proposed by initiative petitions, or enacted by the Legislature and the Governor or passed by the Legislature in response to initiative petitions and submitted to the voters, are approved at the same election by a majority of the total number of votes cast for and against the same, the one receiving the highest number of affirmative votes shall be the law.

(b) If there are submitted to the people at the same election public questions proposed by referendum petitions effecting the repeal of an existing law in its entirety and sections or parts of the same law, or laws enacted by the Legislature and the Governor in response to those referendum petitions, and those public questions or laws shall each receive a majority of the votes cast thereon, the one receiving the highest number of affirmative votes shall be the law.

9. No law proposed by an initiative or referendum petition and approved by the people shall be subject to the veto power of the Governor.

10. The filing of an initiative or referendum petition with respect to any law or section or part thereof shall in no way affect the effective date or the implementation of the law.

Nothing contained in this section shall be construed as preventing from being submitted to the people at the same election:

(a) A referendum question with respect to a law in its entirety and a referendum question with respect to any section or part of the same law; or

(b) Two or more referendum questions with respect to different sections or parts of the same law.

11. If legislation is not enacted within one year of the adoption of this constitutional amendment which implements this constitutional amendment, then this constitutional amendment shall be construed as being self-executing, and in that case, shall be administered by the Secretary of State, provided that the regulations adopted by the Secretary of State shall be superseded by subsequent legislation consistent with this constitutional amendment governing the conduct of the initiative and referendum process.

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

3. This proposed amendment to the Constitution shall be

submitted to the people at that election in the following manner and form:

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

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

If you favor the proposition printed below make a cross (X), plus (+) or check (T) in the square opposite the word ‘Yes.’ If you are opposed thereto make a cross (X), plus (+) or check (T) in the square opposite the word ‘No.’

In every municipality the following question:

	YES	CONSTITUTIONAL AMENDMENT TO ESTABLISH INITIATIVE AND REFERENDUM FOR CERTAIN LAWS Do you approve amending the Constitution to establish an initiative and referendum process for certain laws? The laws would be limited to the financing of political campaigns, elections, lobbying, and ethics for public officials. The laws would also be limited to property tax reform. This process would let the people repeal, propose, and vote for these types of laws.
	NO	INTERPRETIVE STATEMENT This amendment establishes an initiative and referendum process for certain laws. This process would allow the people to propose and vote to adopt laws that deal with particular issues. The process would also allow the people to vote to repeal certain laws. The process would be used only for property tax reform; or to regulate the financing of political campaigns, lobbying, ethics for public officials, and elections. Under this process, the people could propose a law, or the repeal of a law, to the Legislature. If the law is not adopted or repealed, the proposal would be placed before the people for a vote at a general election. This would also happen if the law is adopted, but not in the way proposed. The number of people who sign a proposal would have to equal at least eight percent of the number of votes cast in the last election for Governor.

SCHEDULE

This constitutional amendment shall become a part of the Constitution on the 30th day next following the general election at which it is approved by the voters, except that if, at that election, one or more other public questions proposing constitutional amendments providing for the establishment of the initiative and referendum power are submitted to the voters, then this constitutional amendment

shall not be deemed to have been approved, and shall be void and without effect, unless the number of legally qualified voters voting to approve this constitutional amendment shall be greater than the number of voters voting to approve any of those other constitutional amendments.

STATEMENT

This concurrent resolution proposes to amend the State Constitution to provide the people of the State with the power of indirect initiative and referendum to enact laws to provide for property tax reform, and to govern campaign finance, lobbying, government ethics, and the electoral process.

This constitutional amendment provides the people with the ability to propose to the Legislature a new law on any of these subjects and to place before the Legislature the question of the continuance in force of any existing law on the a subject. The Legislature and the Governor are to respond to the proposal within a specific time period. Otherwise, the people are to have the power to enact the proposed new law, or to repeal the existing law, at the polls.

To qualify a law of enactment or repeal, proposed by an initiative petition or referendum petition, respectively, for submission to the Legislature, the petition which proposes it must contain a number of signatures equal to at least eight percent of the number of votes cast for the office of Governor in the State in the gubernatorial election preceding certification of the petition for circulation. A limit on the time allowed for collecting the required number of signatures may be established by law but shall not be less than one year.

Before a petition could be submitted to the Legislature, it would be required to be filed with the Secretary of State, who is to have 60 days to determine whether the petition was signed by sufficient numbers of registered voters. The Secretary of State is authorized to make this determination on the basis of a sample of the signatures to the petition chosen in accordance with appropriate random sampling techniques. If not found within the 60-day period to have been signed by insufficient numbers of registered voters, the petition would be deemed eligible for submission to the Legislature.

Once a law of enactment proposed by initiative petition or a law of repeal proposed by referendum petition is submitted to the Legislature, the Legislature and the Governor would have the period of time as shall be established by law, but not exceeding six months, in which to enact a substantially similar law of enactment or enact the repeal, as appropriate. In the absence of a timely response, the proposed law of enactment or repeal would be submitted to the people.

The constitutional amendment provides that, prior to the submission to the voters of a proposed law or the repeal of a law, any

party may seek a declaratory judgment from the New Jersey Supreme Court that the law or repeal violates the federal Constitution or law or would be invalid under the State Constitution.

If a law proposed by initiative petition and submitted to the people is not approved, or a law whose continuance is the subject of a public question submitted to the people in a referendum is not rejected, then neither that law or public question, nor one to effect the same or substantially the same change, may be submitted to the people for approval or rejection, as appropriate, before the third general election thereafter. If a law proposed by initiative petition is enacted by the people or a law in response to a petition is enacted by the Legislature and the Governor, or if an existing law which is the subject of a referendum petition is repealed by the people or the Legislature and the Governor, any revision or repeal of the law so enacted, or reenactment of the law so repealed, would require a three-fourths vote in each House of the Legislature during the first two years following that enactment or repeal or a three-fifths vote in each House during the three years following that two-year period.

The constitutional amendment provides that no law proposed by an initiative or referendum petition and approved by the people would be subject to the veto power of the Governor. It also states that if conflicting laws proposed by the initiative process are approved by the people at the same election, the one receiving the highest number of affirmative votes would be deemed approved.

The constitutional amendment includes a schedule providing that, if one or more other proposed constitutional amendments establishing the power of initiative and referendum are on the ballot at the same election at which it is submitted to the people, then it would become effective only if it passes with a greater number of votes than those other proposed amendments receive.