

**SENATE CONCURRENT
RESOLUTION No. 28**

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Senator DECLAN J. O'SCANLON, JR.

District 13 (Monmouth)

SYNOPSIS

Proposes constitutional amendment to provide for Statewide initiative and referendum.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



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

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

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

10
11 PROPOSED AMENDMENT

12
13 a. Amend Article I, paragraph 2, as follows:

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

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29 superseded by any subsequent legislation consistent with this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

33 c. The people reserve unto themselves: the power of initiative
34 to propose to the Legislature amendments to the Constitution and to
35 approve or reject the same at the polls in a general election if the
36 Legislature does not, within a period to be established by law but
37 not exceeding two months from the date of submission to the
38 Legislature of the initiative petition proposing that amendment,
39 complete action to provide for the submission of the proposed
40 amendment or a substantially similar amendment to the people not
41 later than the first general election occurring after the 120th day
42 following the expiration of that period; and the power of initiative
43 to propose to the Legislature laws which are not only for the
44 purpose of repeal and to approve or reject the same at the polls in a
45 general election if substantially similar legislation is not enacted by

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 the Legislature and the Governor, within a period to be established
 2 by law but not exceeding two months from the date of submission
 3 to the Legislature of the initiative petition proposing that law. The
 4 determination of whether a constitutional amendment proposed by
 5 the Legislature or legislation enacted by the Legislature and the
 6 Governor is substantially similar to a constitutional amendment or a
 7 law proposed by an initiative petition hereunder shall be made by
 8 sponsors of the petition in accordance with such procedure as the
 9 Legislature shall provide by general law.

10 The people also reserve unto themselves the power of
 11 referendum to propose to the Legislature the repeal of any law, or
 12 any section or part thereof, and to approve or reject such repeal at
 13 the polls in a general election if such repeal is not enacted by the
 14 Legislature and the Governor, within a period to be established by
 15 law but not exceeding two months from the date of submission to
 16 the Legislature of the referendum petition proposing that repeal.

17 There shall be no power of initiative or referendum to propose to
 18 the Legislature, and to approve or reject at the polls, a law or
 19 constitutional amendment to require or prohibit the siting of a
 20 public or private facility in a specific county or class of counties, or
 21 in a specific municipality or class of municipalities, or a law or
 22 constitutional amendment to repeal a law requiring or prohibiting
 23 such siting.

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

25

26 b. Amend Article II as follows:

27

28 ARTICLE II

29 ELECTIONS **【AND】**, SUFFRAGE AND

30 INITIATIVE AND REFERENDUM

31 SECTION I

32

33 1. General elections shall be held annually on the first Tuesday
 34 after the first Monday in November; but the time of holding such
 35 elections may be altered by law. The Governor, Lieutenant
 36 Governor, and members of the Legislature shall be chosen at
 37 general elections. Local elective officers shall be chosen at general
 38 elections or at such other times as shall be provided by law.

39 Article II, Section I, paragraph 1 amended effective January 17,
 40 2006.

41 2. All questions submitted to the people of the entire State shall
 42 be voted upon at the general election next occurring at least 70 days
 43 following the final action of the Governor or the Legislature, as
 44 appropriate, necessary to submit the questions. The text of any
 45 such question shall be published at least once in one or more
 46 newspapers of each county, if any newspapers be published therein,
 47 at least 60 days before the election at which it is to be submitted to

1 the people, and the results of the vote upon a question shall be void
2 unless the text thereof shall have been so published.

3 Article II, paragraph 2 amended effective December 8, 1988.

4 3. (a) Every citizen of the United States, of the age of 18
5 years, who shall have been a resident of this State and of the county
6 in which he claims his vote 30 days, next before the election, shall
7 be entitled to vote for all officers that now are or hereafter may be
8 elective by the people, and upon all questions which may be
9 submitted to a vote of the people; and

10 (b) (Deleted by amendment, effective December 5, 1974.)

11 (c) Any person registered as a voter in any election district of
12 this State who has removed or shall remove to another state or to
13 another county within this State and is not able there to qualify to
14 vote by reason of an insufficient period of residence in such state or
15 county, shall, as a citizen of the United States, have the right to vote
16 for electors for President and Vice President of the United States,
17 only, by Presidential Elector Absentee Ballot, in the county from
18 which he has removed, in such manner as the Legislature shall
19 provide.

20 Article II, paragraph 3 amended effective December 5, 1974.

21 4. In time of war no elector in the military service of the State
22 or in the armed forces of the United States shall be deprived of his
23 vote by reason of absence from his election district. The Legislature
24 may provide for absentee voting by members of the armed forces of
25 the United States in time of peace. The Legislature may provide the
26 manner in which and the time and place at which such absent
27 electors may vote, and for the return and canvass of their votes in
28 the election district in which they respectively reside.

29 5. No person in the military, naval or marine service of the
30 United States shall be considered a resident of this State by being
31 stationed in any garrison, barrack, or military or naval place or
32 station within this State.

33 6. No person who has been adjudicated by a court of competent
34 jurisdiction to lack the capacity to understand the act of voting shall
35 enjoy the right of suffrage.

36 Article II, Section I, paragraph 6 amended effective November 6,
37 2007.

38 7. The Legislature may pass laws to deprive persons of the
39 right of suffrage who shall be convicted of such crimes as it may
40 designate. Any person so deprived, when pardoned or otherwise
41 restored by law to the right of suffrage, shall again enjoy that right.

42

43 c. Amend Article II by the addition of a Section III to read as
44 follows:

SECTION III

1. (a) The number of signatures of registered voters required upon an initiative petition proposing a constitutional amendment in order for that petition to be submitted to the Legislature shall be equal to at least 10% 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, provided that the petition signatures shall include signatures from each of the four regions of the State hereinafter designated equal in number to at least 10% of the total number of votes cast for the office of Governor in those respective regions in that gubernatorial election.

(b) The number of signatures of registered voters required upon an initiative petition proposing a law of enactment or a referendum petition proposing a public question effecting repeal in order for that petition to be submitted to the Legislature shall be equal to at least 6% 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, provided that the petition signatures shall include signatures from each of the four regions of the State hereinafter designated equal in number to at least 6% of the total number of votes cast for the office of Governor in those respective regions in that gubernatorial election.

(c) For the purposes of subparagraphs (a) and (b) of this paragraph, the regions shall be: a northeastern region, comprising the counties of Bergen, Essex, Hudson, Passaic, and Union; a northwestern region, comprising the counties of Hunterdon, Morris, Somerset, Sussex, and Warren; a central region, comprising the counties of Burlington, Mercer, Middlesex, Monmouth, and Ocean; and a southern region, comprising the counties of Atlantic, Camden, Cape May, Cumberland, Gloucester, and Salem.

(d) 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, in the case of an initiative petition proposing a constitutional amendment, or subparagraph (b) of this paragraph, in the case of an initiative petition proposing a law or a referendum petition. The Secretary of State may employ such random sampling techniques, meeting ordinary professional standards of statistical reliability, as the Legislature may provide by law or, in the absence of such provision, 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

1 effect. Otherwise, the petition shall be deemed eligible for
 2 submission to the Legislature.

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

8 2. No law proposed by an initiative petition which was enacted
 9 by a vote of the people, nor any law enacted by the Legislature and
 10 the Governor in response to such a petition, shall be amended,
 11 repealed, superseded, nullified or suspended, and no law which is
 12 repealed as a result of a referendum shall be reenacted, by the
 13 Legislature for a period of two years except by a vote of
 14 three-fourths of all the members of each House, or for a period of
 15 three years after the two-year period except by a vote of three-fifths
 16 of all the members of each House, after at least 20 calendar days
 17 shall have elapsed following the introduction of a bill to amend,
 18 repeal, supersede, nullify, suspend or reenact, as the case may be,
 19 and a public hearing has been held thereon.

20 3. If, at a general election, a law or constitutional amendment
 21 proposed by an initiative petition is not approved or a law whose
 22 continuance is the subject of a public question proposed by a
 23 referendum petition is not rejected, neither the proposed law or
 24 constitutional amendment, nor the public question concerning the
 25 law which was the subject of the referendum petition, nor one to
 26 effect the same or substantially the same change shall be submitted
 27 to the people before the second general election thereafter.

28 4. (a) Prior to the submission to the voters of a constitutional
 29 amendment or law of enactment proposed by an initiative petition
 30 or a law of repeal proposed by a referendum petition, a party may
 31 seek a declaratory judgment of the Supreme Court (1) that the
 32 proposed constitutional amendment or law of enactment or repeal
 33 would be invalid under the Constitution or laws of the United
 34 States, or (2) in the case of a proposed law of enactment or repeal,
 35 that such a proposed law cannot be enacted or given effect as
 36 legislation, if the pleading requesting such judgment is filed with
 37 the Supreme Court not later than the 90th day following the
 38 submission of the petition to the Legislature. Any such action shall
 39 be heard and decided, and appropriate relief granted, with all due
 40 expedition, but in no case later than six months following that
 41 submission.

42 (b) No law or amendment to the Constitution submitted to the
 43 people by initiative petition and approved by the people shall be
 44 held unconstitutional or void on account of the insufficient number
 45 of signatures on the petition by which the submission of the same
 46 was procured; nor shall the repeal of any law, or section or part
 47 thereof, resulting from a referendum be held invalid for the same
 48 insufficiency.

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

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

8 (b) Any law or constitutional amendment proposed by an
9 initiative petition affecting taxes or appropriations and enacted by
10 the people shall become effective at the beginning of the fiscal year
11 next following passage or approval of the law or constitutional
12 amendment, and any law affecting taxes or appropriations whose
13 continuance is the subject of a public question proposed by a
14 referendum petition shall cease to be effective at the beginning of
15 the fiscal year next following the rejection of that law. Any other
16 law, constitutional amendment, or public question proposed by such
17 a petition shall become effective on the date provided by that
18 proposed law or constitutional amendment or by that public
19 question, or if no such date is so provided, then upon the 30th day
20 following enactment or approval of the law or constitutional
21 amendment, as appropriate, proposed by an initiative petition or
22 following the rejection of a law as a result of a referendum.

23 7. The Secretary of State shall cause a law or constitutional
24 amendment proposed by an initiative petition or a public question
25 proposed by a referendum petition which is to be submitted to the
26 people to be published at least once in one or more newspapers of
27 each county, if any be published therein, not less than three months
28 prior to that submission to the people.

29 8. (a) If conflicting laws or conflicting amendments to the
30 Constitution proposed by initiative petitions, or enacted by the
31 Legislature and the Governor or passed by the Legislature in
32 response to initiative petitions and submitted to the voters, are
33 approved at the same election by a majority of the total number of
34 votes cast for and against the same, the one receiving the highest
35 number of affirmative votes shall be the law, or in the case of
36 amendments to the Constitution shall be the amendment to the
37 Constitution.

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

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

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

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

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

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

11 11. If legislation is not enacted within one year of the date this
12 constitutional amendment becomes part of the constitution, then this
13 constitutional amendment shall be construed as being
14 self-executing, and in that case, shall be administered by the
15 Secretary of State, provided that the regulations adopted by the
16 Secretary of State shall be superseded by subsequent legislation
17 consistent with this constitutional amendment governing the
18 conduct of the initiative and referendum process.

19
20 2. When this proposed amendment to the Constitution is finally
21 agreed to pursuant to Article IX, paragraph 1 of the Constitution, it
22 shall be submitted to the people at the next general election
23 occurring more than three months after the final agreement and
24 shall be published at least once in at least one newspaper of each
25 county designated by the President of the Senate, the Speaker of the
26 General Assembly and the Secretary of State, not less than three
27 months prior to the general election.

28
29 3. This proposed amendment to the Constitution shall be
30 submitted to the people at that election in the following manner and
31 form:

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

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

36 If you favor the proposition printed below make a cross (X), plus
37 (+), or check (✓) in the square opposite the word "Yes." If you are
38 opposed thereto make a cross (X), plus (+) or check (✓) in the
39 square opposite the word "No."

40 b. In every municipality the following question:

1

	YES	<p>ESTABLISHES THE INITIATIVE AND REFERENDUM PROCESS FOR STATE GOVERNMENT</p> <p>Shall the amendment to Article I, paragraph 2 and Article II of the constitution, agreed to by the Legislature, establishing the process of initiative and referendum for State government, be adopted?</p>
	NO	<p>INTERPRETIVE STATEMENT</p> <p>Approval of this amendment would establish an indirect initiative and referendum process in this State whereby proposed constitutional amendments and proposals that new laws be enacted or existing laws be considered for repeal would be submitted to the Legislature for action. If the Legislature does not take action on the proposal, or a substantially similar proposal within two months, the proposed constitutional amendment or law would be placed on the ballot. The number of signatures required to submit a proposed constitutional amendment to the Legislature would be at least 10% of the votes cast in the State in the preceding gubernatorial election, and the number of signatures required to submit a proposed law to the Legislature would be at least 6% of the votes cast in that election. In each case, a proportional number of the signatures would have to come from each of four regions in the State; those regions include a northeastern region (the counties of Bergen, Essex, Hudson, Passaic, and Union), a northwestern region (the counties of Hunterdon, Morris, Somerset, Sussex, and Warren), a central region (the counties of Burlington, Mercer, Middlesex, Monmouth, and Ocean), and a southern region (the counties of Atlantic, Camden, Cape May, Cumberland, Gloucester, and Salem).</p>

2

3

SCHEDULE

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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.

6

7

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.

This constitutional amendment provides the people with the ability to propose to the Legislature a constitutional amendment or new law and to place before the Legislature the question of the continuance in force of any existing law. The Legislature (and the Governor, in the case of a proposal to enact or repeal a law) are to respond to such a proposal within two months; otherwise, the people are to have the power to adopt or enact the proposed constitutional amendment or new law, or to reject the existing law, at the polls. The power of initiative and referendum is not to include the power to propose constitutional amendments or laws to require or prohibit the siting of any facility in a specific county or class of counties, or in a specific municipality or class of municipalities.

To qualify a constitutional amendment for submission to the Legislature, the petition which proposes it must contain a number of signatures equal to at least 10% 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. 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 6% 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. These signature requirements would apply regionally as well as Statewide: the petition must include signatures from five counties in the northeastern region of the State (the counties of Bergen, Essex, Hudson, Passaic, and Union), five counties in the northwestern region of the State (the counties of Hunterdon, Morris, Somerset, Sussex, and Warren), five counties in the central region of the State (the counties of Burlington, Mercer, Middlesex, Monmouth, and Ocean), and six counties in the southern region of the State (the counties of Atlantic, Camden, Cape May, Cumberland, Gloucester, and Salem), equal in number to at least 10% or 6%, as appropriate, of the votes cast for the office of Governor in that preceding gubernatorial election within those regions. 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 is 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

1 petition chosen in accordance with appropriate random sampling
2 techniques. If not found within the 60-day period to have been
3 signed by insufficient numbers of registered voters, the petition
4 could be submitted to the Legislature.

5 Once a constitutional amendment or law of enactment proposed
6 by initiative petition or a law of repeal proposed by referendum
7 petition is submitted to the Legislature, the Legislature (and the
8 Governor, in the case of a proposal to enact or repeal a law) would
9 have such period of time as shall be established by law, but not
10 exceeding two months, in which to propose a substantially similar
11 constitutional amendment, enact a substantially similar law of
12 enactment, or enact the repeal, as appropriate. In the absence of
13 such timely response, the proposed constitutional amendment or
14 law of enactment or repeal is to be submitted to the people.

15 The constitutional amendment provides that, prior to the
16 submission to the voters of a proposed law or repealer, any party
17 may seek a declaratory judgment from the New Jersey Supreme
18 Court that the law or repealer violates the federal Constitution or
19 law or would be invalid under the State Constitution.

20 If a constitutional amendment or law proposed by initiative
21 petition and submitted to the people is not approved, or a law whose
22 continuance is the subject of a public question submitted to the
23 people in a referendum is not rejected, then neither that amendment,
24 law or public question, nor one to effect the same or substantially
25 the same change, may be submitted to the people for approval or
26 rejection, as appropriate, before the second general election
27 thereafter. If a law proposed by initiative petition is enacted by the
28 people or a law in response to such a petition is enacted by the
29 Legislature and the Governor, or if an existing law which is the
30 subject of a referendum petition is repealed by the people or the
31 Legislature and the Governor, any revision or repeal of the law so
32 enacted, or reenactment of the law so repealed, would require a
33 three-fourths vote in each House of the Legislature during the first
34 two years following that enactment or repeal or a three-fifths vote
35 in each House during the three years following that two-year period.

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