ASSEMBLY CONCURRENT
RESOLUTION No. 74

STATE OF NEW JERSEY
214th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2010 SESSION

Sponsored by:
Assemblyman MICHAEL PATRICK CARROLL
District 25 (Morris)
Assemblywoman ALISON LITTELL MCHOSE
District 24 (Sussex, Hunterdon and Morris)

Co-Sponsored by:
Assemblyman Chiusano

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

CURRENT VERSION OF TEXT
Introduced Pending Technical Review by Legislative Counsel
ACR74 CARROLL, MCHOSE

A CONCURRENT RESOLUTION proposing to amend Article II of the Constitution of the State of New Jersey.

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

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

PROPOSED AMENDMENT

a. Amend the Title of Article II as follows:

ARTICLE II

ELECTIONS [AND], SUFFRAGE AND INITIATIVE

b. Amend Article II by the addition of new Section III as to read as follows:

SECTION III

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

Any statute enacted by the Legislature may be repealed by the people in the same manner as described above. The question on the ballot shall be “Shall Pamphlet Law (with the citation to same), be repealed?” An explanatory statement may accompany the question the statute. In the event that a plurality of the persons casting a ballot on such question, at a general election held not less than sixty days after the petitions are certified, shall cast their ballots in the affirmative, the statute shall be of no force or effect whatsoever and the law shall return to as it was prior to the adoption 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.
In the event that the statute so repealed is a tax or fee increase, the effect shall be retroactive to the date of the statute’s adoption, or the adoption of the annual appropriations act next preceding the referendum, whichever is later, and Governor shall immediately sequester funds in the amount necessary to offset the loss of revenue. No other revenue enhancing measure of any kind shall be adopted for six months after the popular repeal of a tax or fee increase. The Legislature shall not adopt any measure substantially similar to that repealed by the people until an election for the Senate shall have intervened.

Any person who shall challenge a statute on the grounds that it is contrary to the provisions of this section shall, if successful, and in addition to all equitable or legal relief available, be entitled to recover all reasonable legal fees incurred in the challenge and such sum equal to the fee shall be deducted equally from the staff allotment for every member of the Legislature to have voted in favor of such statute and the deduction shall not be compensated for in any other manner.

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 Attorney General, 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 (☑) in the square opposite the word "Yes." If you are opposed thereto make a cross (X), plus (+) or check (☑) in the square opposite the word "No."

b. In every municipality the following question:
<table>
<thead>
<tr>
<th>YES</th>
<th>ESTABLISHES INITIATIVE PROCESS FOR LIMITED PURPOSE OF OVERTURNING NEW JERSEY SUPREME COURT DECISIONS OR STATUTES</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Shall the amendment to Article II of the State Constitution, agreed to by the Legislature, establishing the process of initiative in this State for the limited purpose of overturning New Jersey Supreme Court decisions or statutes enacted by the Legislature, be adopted?</td>
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<table>
<thead>
<tr>
<th>NO</th>
<th>INTERPRETIVE STATEMENT</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>This constitutional amendment would establish a process of initiative which would enable the people to vote to reverse a decision of the New Jersey Supreme Court or to repeal a statute enacted by the Legislature. The question of reversing a Supreme Court decision or repealing a statute would be placed on the ballot 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 reenacted by the Legislature until after an intervening Senate election. A person who successfully challenges the Legislature’s reenactment of a tax or fee increase after repeal by the voters would be entitled to legal fees which will be deducted from the staff allotment of every member of the Legislature who voted for that statute.</td>
</tr>
</tbody>
</table>

STATEMENT

This constitutional amendment would establish a process of initiative and referendum which would enable the people to vote to reverse a decision of the New Jersey Supreme Court or to repeal a statute. The question of reversing a Supreme Court decision or repealing a statute would be placed on the ballot 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 reenacted by the Legislature until after an intervening Senate election. A person who successfully challenges the Legislature’s
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allotment of every member of the Legislature who voted for that
statute.