SENATE CONCURRENT RESOLUTION No. 86

STATE OF NEW JERSEY
214th LEGISLATURE

INTRODUCED MARCH 4, 2010

Sponsored by:
Senator SEAN T. KEAN
District 11 (Monmouth)

SYNOPSIS
Proposes constitutional amendment to provide for 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.

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

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

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regulation, implement the constitutional amendment, except that regulations adopted by the Secretary of State shall be superseded by any subsequent legislation consistent with this constitutional amendment governing recall elections.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 amendments to the Constitution and to approve or reject the same at the polls in a general election if the Legislature does not, within a period to be established by law but not exceeding two months from the date of submission to the Legislature of the initiative petition proposing that amendment, complete action to provide for the submission of the proposed amendment or a substantially similar amendment to the people not later than the first general election occurring after the 120th day following the expiration of that period; and the power of initiative to propose to the Legislature laws which are not only for the purpose of repeal and to approve or reject the same at the polls in a 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.
the Legislature and the Governor, within a period to be established
by law but not exceeding two months from the date of submission
to the Legislature of the initiative petition proposing that law. The
determination of whether a constitutional amendment proposed by
the Legislature or legislation enacted by the Legislature and the
Governor is substantially similar to a constitutional amendment or a
law proposed by an initiative petition hereunder shall be made by
sponsors of the petition in accordance with such procedure as 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, and to approve or reject such repeal at
the polls in a general election if such repeal is not enacted by the
Legislature and the Governor, within a period to be established by
law but not exceeding two months from the date of submission to
the Legislature of the referendum petition proposing that repeal.

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

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

b. Amend Article II as follows:

ARTICLE II
ELECTIONS [AND], SUFFRAGE AND
INITIATIVE AND REFERENDUM
SECTION I

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

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

2. All questions submitted to the people of the entire State shall
be voted upon at the general election next occurring at least 70 days
following the final action of the Governor or the Legislature, as
appropriate, necessary to submit the questions. The text of any
such question shall be published at least once in one or more
newspapers of each county, if any newspapers be published therein,
at least 60 days before the election at which it is to be submitted to
the people, and the results of the vote upon a question shall be void
unless the text thereof shall have been so published.

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

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

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

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

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

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

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

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

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

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

c. Amend Article II by the addition of a Section III to read as
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
effect. Otherwise, the petition shall be deemed eligible for submission to the Legislature.

(e) An initiative or referendum petition which is not filed with the Secretary of State as required under subparagraph (d) of this paragraph within such 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 such 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 or constitutional amendment 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 or constitutional amendment, 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 second general election thereafter.

4. (a) Prior to the submission to the voters of a constitutional amendment or 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 (1) that the proposed constitutional amendment or law of enactment or repeal would be invalid under the Constitution or laws of the United States, or (2) in the case of a proposed law of enactment or repeal, that such a proposed law cannot be enacted or given effect as legislation, if the pleading requesting such judgment is filed with the Supreme Court not later than the 90th day following the submission of the petition to the Legislature. Any such 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) No law or amendment to the Constitution submitted to the people by initiative petition and approved by the people shall 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 or constitutional amendment proposed by an
initiative petition affecting taxes or appropriations and enacted by
the people shall become effective at the beginning of the fiscal year
next following passage or approval of the law or constitutional
amendment, and any law affecting taxes or appropriations whose
continuance is the subject of a public question proposed by a
referendum petition shall cease to be effective at the beginning of
the fiscal year next following the rejection of that law. Any other
law, constitutional amendment, or public question proposed by such
a petition shall become effective on the date provided by that
proposed law or constitutional amendment or by that public
question, or if no such date is so provided, then upon the 30th day
following enactment or approval of the law or constitutional
amendment, as appropriate, 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 or constitutional
amendment 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 three months
prior to that submission to the people.

8. (a) If conflicting laws or conflicting amendments to the
Constitution 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, or in the case of
amendments to the Constitution shall be the amendment to the
Constitution.

(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 date this
constitutional amendment becomes part of the constitution, 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 (√) 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 THE INITIATIVE AND REFERENDUM PROCESS FOR STATE GOVERNMENT</th>
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<tbody>
<tr>
<td></td>
<td>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?</td>
</tr>
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<table>
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<tr>
<th>NO</th>
<th>INTERPRETIVE STATEMENT</th>
</tr>
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<tr>
<td></td>
<td>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).</td>
</tr>
</tbody>
</table>
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.

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
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
could be submitted to the Legislature.

Once a constitutional amendment or 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, in the case of a proposal to enact or repeal a law) would
have such period of time as shall be established by law, but not
exceeding two months, in which to propose a substantially similar
constitutional amendment, enact a substantially similar law of
enactment, or enact the repeal, as appropriate. In the absence of
such timely response, the proposed constitutional amendment or
law of enactment or repeal is to be submitted to the people.

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

If a constitutional amendment or 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 amendment,
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 second general election
thereafter. If a law proposed by initiative petition is enacted by the
people or a law in response to such 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-fifths voter 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
shall be subject to the veto power of the Governor. It also states
that if conflicting constitutional amendments or laws proposed by
the initiative process are approved by the people at the same
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election, the one receiving the highest number of affirmative votes is to be deemed approved.