ASSEMBLY CONCURRENT RESOLUTION No. 36

STATE OF NEW JERSEY
216th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2014 SESSION

Sponsored by:
Assemblyman ANTHONY M. BUCCO
District 25 (Morris and Somerset)
Assemblywoman ALISON LITTELL MCHOSE
District 24 (Morris, Sussex and Warren)
Assemblyman PARKER SPACE
District 24 (Morris, Sussex and Warren)

Co-Sponsored by:
Assemblywoman Handlin, Assemblymen Carroll, Russo, Bramnick, Rumpf, Wolfe, Assemblywomen N.Munoz, Gove, B.DeCroce, Simon, Phoebus and Assemblyman S.Kean

SYNOPSIS
Proposes constitutional amendment to provide for Statewide initiative and referendum for directing State fiscal restraint.

CURRENT VERSION OF TEXT
Introduced Pending Technical Review by Legislative Counsel

(Sponsorship Updated As Of: 12/4/2015)
ACR36 A.M.BUCCO, MCHOSE

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

WHEREAS, For decades, overall State spending has increased at rates far exceeding the rate of inflation; and
WHEREAS, For decades, State taxes have increased at rates far exceeding the rate of inflation; and
WHEREAS, For decades, State-authorized long-term debt has increased at rates far exceeding the rate of inflation; and
WHEREAS, All experience has shown that legislatures and governors of the past and the present have failed to exercise proper fiscal discipline; and
WHEREAS, Article 1, paragraph 2 of the Constitution of the State of New Jersey states that, “All political power is inherent in the people;” and
WHEREAS, It is entirely appropriate for the people, who are responsible for funding State government, to exercise direct power to provide general direction to the Legislature and the Governor concerning matters of fiscal responsibility and restraint; and
WHEREAS, The super-majority legislative override provisions are intended to provide reasonable checks and balances on the process and to provide legislative flexibility to address emergency situation; now, therefore,

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 Article I, paragraph 2, to read 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

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.
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 and referendum to direct the fiscal policy and decisions of the State by enacting and repealing laws governing certain forms of State spending, appropriations, and taxation as well as the issuance of long-term public debt by approving the same at the polls in a general election.


b. Amend the Title of Article II and insert new Section III to read as follows:

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

SECTION III

I. (a) An initiative and referendum petition proposing a voter enactment directing fiscal restraint shall be submitted to the voters of the State if the petition is signed by a number of registered voters in each of 14 counties in the State equal to at least 25% of the number of voters cast in each such county for the office of Governor in the gubernatorial election preceding certification of the petition for circulation as shall be provided by law.

(b) Before an initiative and referendum petition proposing a voter enactment directing fiscal restraint is submitted to the voters at a general election, petitioners shall file the petition with the Secretary of State not less than 60 days before a general election at which the referendum is identified to be submitted to the voters, and the Secretary of State shall within 30 days after that filing determine and certify 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 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 30th day following the filing, the Secretary of State determines that sufficient numbers of signatures so required to be included on the petition have not been obtained, that petition shall
be deemed void and without effect. Otherwise, the petition shall be
deemed certified as eligible for submission to the voters at a general
election at which the referendum is identified to be submitted to the
voters.

(c) An initiative petition that is not filed with the Secretary of
State as required under subparagraph (b) 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. An initiative and referendum petition proposing a voter
enactment directing fiscal restraint, for any of the following, shall
be submitted in such manner and form that the people may vote for
or against each enactment separately and distinctly, and shall be
deemed enacted hereunder if a public question submitting the same
at a general election is approved by the affirmative vote of a
majority of the total number of votes cast for and against the same:

(a) an enactment that mandates that the current State fiscal year
total appropriations amount, including amounts provided in the
annual appropriation act and any supplemental appropriation law or
other law appropriating money from any source, including
appropriations made by means of general language committing
funds in an unspecified, conditional or contingent amount for any
purpose, be reduced by up to ten percent of that total, which
reduction shall be implemented by elimination or reduction of
specific items of appropriation and changes to appropriations made
by means of general language committing funds in an unspecified,
conditional or contingent amount, which shall be identified by the
Governor within 60 days after approval of the enactment by the
voters, by the filing of a statement by the Governor with the
Secretary of State and each house of the Legislature; provided
however, that the enactment is not reconsidered and rejected by the
Legislature, within 45 days after the approval of the enactment by
the voters, by two-thirds of all the members of each house of the
Legislature, the yeas and nays of the members voting on such
rejection being entered on the journal of each house;

(b) an enactment that mandates that in the current State fiscal
year the elimination of a specific item of appropriation or changes
to an appropriation made by means of general language committing
funds in an unspecified, conditional or contingent amount for any
purpose, that is provided in the annual appropriation act and any
supplemental appropriation law or other law appropriating money
from any source, which elimination shall take effect on the 60th day
after the approval of the enactment by the voters; provided
however, that the enactment is not reconsidered and rejected by the
Legislature, within 45 days after the approval of the enactment by
the voters, by two-thirds of all the members of each house of the
Legislature, the yeas and nays of the members voting on such
rejection being entered on the journal of each house.
(c) an enactment that mandates that total anticipated revenue from State taxes, assessments, enhancements, fees, fines or surcharges of any manner, enacted by law, be reduced by up to ten percent of that total, which reduction shall be implemented by the Governor within 60 days after approval of the enactment by the voters, by the filing of a statement by the Governor with the Secretary of State and each house of the Legislature; provided however, that the enactment is not reconsidered and rejected by the Legislature within 45 days after the approval of the enactment by the voters, by two-thirds of all the members of each house of the Legislature, the yeas and nays of the members voting on such rejection being entered on the journal of each house; and

(d) an enactment that mandates the repeal of a law that imposes a State tax, increases a State tax, or modifies any State tax law policy including but not limited to the authorizing of a State tax credit, deduction, exclusion, exemption, refund, rebate or rate change, which repeal shall take effect on the 45th day after the approval of the enactment by the voters, and which repeal shall be in effect for a period of three tax years, unless the reinstatement of the repealed law or substantially similar law be approved by two-thirds of all the members of each house of the Legislature, the yeas and nays of the members voting on such approval being entered on the journal of each house; and

(e) an enactment that mandates that a law authorizing the issuance of any long-term debt by any State statutory entity, other than a law that was approved by the voters pursuant to Article VIII, Section II, paragraph 3 of this Constitution, shall be suspended for a period of one year, which suspension shall take effect on the 45th day after the approval of the enactment by the voters, during which one year period no debt shall be issued under that suspended law; provided however, that no initiative and referendum shall be allowed under this subparagraph if at the time of the enactment of the law authorizing the issuance of any long-term debt by any State statutory entity, the law be approved by two-thirds of all the members of each house of the Legislature, the yeas and nays of the members voting on such approval being entered on the journal of each house, and a statement recording that approval be appended to the bill enacting that law by the presiding officers of each house.

3. If, at a general election, a proposed enactment directing fiscal restraint is not approved, neither the proposed enactment, nor a public question concerning the proposed enactment which was the subject of the referendum petition, nor one to effect the same or substantially the same change shall be proposed to the voters before the third general election thereafter.

4. (a) Prior to the submission to the voters of a voter enactment directing fiscal restraint by a referendum petition, a party may seek a declaratory judgment of the Supreme Court that the proposed enactment would be invalid under the Constitution or laws of the
United States, if the pleading requesting such judgment is filed with
the Supreme Court not later than 15 days following the certification
of the referendum petition by the Secretary of State pursuant to
subparagraph (b) of paragraph 1 of Section III of Article II of this
Constitution. Any such action shall be heard and decided, and
appropriate relief granted, with all due expedition, but in no case
later than 30 days following that submission.

(b) No voter enactment directing fiscal restraint 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.

5. An enactment directing fiscal restraint proposed by an
initiative and referendum petition shall begin in the following style:
"Be it enacted by the People of the State of New Jersey".

6. The Secretary of State shall cause an enactment directing
fiscal restraint proposed by an initiative petition to be submitted to
the people to be published at least once in one or more newspapers
of each county, if any newspaper be published therein, not less than
90 days prior to that submission to the people.

7. (a) If conflicting enactments directing fiscal restraint 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, only the one receiving the
highest number of affirmative votes shall be deemed enacted.

(b) If there are submitted to the people at the same election
enactments directing fiscal restraint 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 enactments directing fiscal restraint shall each receive a
majority of the votes cast thereon, only the one receiving the
greatest number of affirmative votes shall be deemed enacted.

8. No enactments directing fiscal restraint proposed by an
initiative and referendum petition and approved by the people shall
be subject to the veto power of the Governor.

9. The filing of an initiative and 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.

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><strong>YES</strong></th>
<th><strong>ESTABLISHES AN INITIATIVE AND REFERENDUM PROCESS FOR DIRECT VOTER ENACTMENT OF STATE FISCAL RESTRAINTS</strong></th>
</tr>
</thead>
<tbody>
<tr>
<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 direct voter enactment of State fiscal restraints, be adopted?</td>
<td></td>
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<table>
<thead>
<tr>
<th><strong>NO</strong></th>
<th><strong>INTERPRETIVE STATEMENT</strong></th>
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<tbody>
<tr>
<td>Adoption of this amendment will establish a direct initiative and referendum process in this State whereby State voters will be able to directly enact laws by majority voter approval through State general election public questions in five specific categories imposing fiscal restraints upon the State Government. Those five categories are: (1) reduction of up to 10 percent of total State appropriations, (2) elimination of specific items of State appropriation, (3) reduction of up to 10 percent of total anticipated State revenue from taxes and all other sources, (4) repeal of any State tax law, and (5) a one year suspension of the issuance any long-term debt by any State statutory entity which debt was not approved by the voters. The Legislature will be able to negate a voter-enacted fiscal restraint only by a recorded two-thirds majority vote of all members of both houses within 45 days of voter approval. The Governor is directed when necessary to implement voter enacted fiscal restraints. A statewide referendum petition will be submitted to the voters if it contains voter signatures in each of at least 14 counties equal to at least 25% of the votes cast for the last gubernatorial election. A petition proposing a voter enactment directing fiscal restraint may contain more than one such enactment, but must allow for a separate and distinct public question to be voted on for each such enactment.</td>
<td></td>
</tr>
</tbody>
</table>
This concurrent resolution proposes to amend the State Constitution to provide the people of New Jersey with the power of direct initiative and referendum to enact and repeal laws governing certain forms of State spending, appropriations and taxation as well as the issuance of long-term public debt.

This constitutional amendment provides the people of New Jersey with the ability to directly enact and repeal laws by majority voter approval through State general election public questions in five specific categories. Focused on imposing greater fiscal restraints on State government, the five categories, include: (1) reduction of up to 10 percent of total State appropriations, (2) elimination of specific items of State appropriation, (3) reduction of up to 10 percent of total anticipated State revenue from taxes and all other sources, (4) repeal of any State tax law, and (5) a one year suspension of the issuance of any long-term debt by any State statutory entity which debt was not approved by the voters. Under the provisions of the resolution, the Legislature may negate a direct enactment through a recorded two-thirds majority vote of all members in both Houses within 45 days of voter approval. When mandated by a direct vote of the people, the Governor is authorized to implement the provisions of voter enacted fiscal restraints.

A statewide referendum petition will be submitted to the voters if it contains voter signatures in each of at least 14 counties equal to at least 25% of the votes cast for the last gubernatorial election. A limit on the time allowed for collecting the required number of signatures may be established by law, but the limitation cannot be less than one year. A petition proposing a voter enactment directing fiscal restraint may contain more than one such proposed enactment, but it must allow for a separate and distinct public question to be voted on for each such enactment.

Before a petition can be submitted to the voters at a general election, it is to be filed with the Secretary of State, who is to have 60 days to determine whether the petition was signed by a sufficient number of registered voters. The Secretary of State is authorized to make a determination on the basis of a sample of the signatures, chosen in accordance with appropriate random sampling techniques. If, on or before the 30th day after the filing, the Secretary of State determines that a sufficient number of signatures have not been obtained, the petition is deemed void and without effect. Otherwise, the petition is deemed eligible for submission to the voters at a general election.

This constitutional amendment provides that prior to the submission to the voters of a proposed enactment, any party may seek a declaratory judgment from the New Jersey Supreme Court.
that the proposed enactment would be invalid under the Constitution or laws of the United States.

If a law proposed by initiative or referendum 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 nor public question, or one to effect the same or substantially the same change, may be submitted to the people for approval or rejection, before the third general election thereafter.

The constitutional amendment also provides that no law proposed by an initiative or referendum petition and approved by the people may be subject to the veto power of the Governor. It also provides 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 will be approved.