ASSEMBLY CONCURRENT RESOLUTION No. 83

STATE OF NEW JERSEY
216th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2014 SESSION

Sponsored by:
Assemblyman GORDON M. JOHNSON
District 37 (Bergen)
Assemblywoman ALISON LITTLE MCHOSE
District 24 (Morris, Sussex and Warren)
Assemblyman CRAIG J. COUGHLIN
District 19 (Middlesex)
Assemblyman BENJIE E. WIMBERLY
District 35 (Bergen and Passaic)
Assemblyman DANIEL R. BENSON
District 14 (Mercer and Middlesex)

Co-Sponsored by:
Assemblymen DeAngelo, Schaefer, S.Kean, Giblin, Rible, Rumpf,
Assemblywomen Gove, Sumter, Assemblyman Space and Assemblywoman Phoebeus

SYNOPSIS
Proposes constitutional amendment authorizing statute transferring probation functions from Judiciary to State Parole Board.

CURRENT VERSION OF TEXT
Introduced Pending Technical Review by Legislative Counsel

(Sponsorship Updated As Of: 12/4/2015)
ACR83 JOHNSON, MCHOSE

A CONCURRENT RESOLUTION proposing to amend Article V, Section IV of the Constitution of New Jersey by adding a new paragraph.

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 agreed to:

PROPOSED AMENDMENT

Amend Article V, Section IV by adding a new paragraph 7 to read as follows:

7. The Legislature is authorized to establish by law a Bureau of Probation in the State Parole Board and to authorize by law the transfer of all the functions, powers, duties, and responsibilities concerning probation, and the probation officers and other professional supervisors, case workers, and case-related employees who perform probation functions, from the Judiciary to the Bureau of Probation. No term or condition of any existing contract shall be altered or abrogated by this transfer and the transfer shall not affect the status of existing exclusive employee bargaining representatives. The units and contracts and the contract representatives shall, therefore, be continued in the Bureau of Probation.

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

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.
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>AMENDS CONSTITUTION TO AUTHORIZE CREATION OF BUREAU OF PROBATION IN STATE PAROLE BOARD AND TRANSFER CERTAIN PROBATION FUNCTIONS AND PROBATION OFFICERS TO THE BUREAU.</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>Do you approve the proposed amendment to the New Jersey Constitution authorizing the Legislature to enact a law that would establish a Bureau of Probation in the State Parole Board? This law would transfer from the Judiciary to the Bureau of Probation all of the functions, powers, duties and responsibilities concerning probation. It also transfers the probation officers and other employees who perform probation-related functions.</td>
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<table>
<thead>
<tr>
<th>NO</th>
<th>INTERPRETIVE STATEMENT</th>
</tr>
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<tbody>
<tr>
<td></td>
<td>Adoption of this amendment authorizes the Legislature to pass a law to create the Bureau of Probation in the State Parole Board. The law will transfer the functions, powers, duties and responsibilities concerning probation from the Judiciary to the Bureau of Probation. The law also will transfer probation officers and other employees who perform probation-related functions from the Judiciary to the Bureau of Probation. The terms and conditions of existing contracts will not be altered or abrogated by this transfer. The transfer also will not affect the status of existing exclusive employee bargaining representatives.</td>
</tr>
</tbody>
</table>

STATEMENT

This Concurrent Resolution proposes to amend the State Constitution to authorize the Legislature to enact a statute to establish a Bureau of Probation in the State Parole Board. The constitutional amendment transfers all of the functions, powers, duties and responsibilities concerning probation, and the probation officers and other professional supervisors, case workers, and case-related employees who perform probation functions from the Judiciary to this new Bureau of Probation.
Under this proposed constitutional amendment, existing contractual terms and conditions would remain unchanged, as would the status of exclusive employee bargaining representatives. The units and contracts, as well as the contract representatives, would be continued in the Bureau of Probation.

In 2001, the Legislature enacted a law (P.L.2001, c.362; C.2B:10A-1 et al.) to establish a “Probation Officer Community Safety Unit” consisting of at least 200 probation officers authorized to carry a firearm in accordance with the provisions of paragraph (17) of subsection c. of N.J.S.2C:39-6 and regulations adopted by the Attorney General. The legislation also granted these probation officers the authority to arrest probationers, enforce the criminal laws of this State, and enforce warrants for the apprehension and arrest of probationers who violate conditions of probation.

In April 2006, the New Jersey Supreme Court ruled that P.L.2001, c.362 (C.2B:10A-1 et al.) was unconstitutional because it violated the separation of powers doctrine. The court stated that it is the responsibility of the Judiciary to define the duties of probation officers. The court also reiterated its position that probation officers are not law enforcement officers, but impartial agents of the Judiciary.