

**ASSEMBLY CONCURRENT
RESOLUTION No. 170**

STATE OF NEW JERSEY

218th LEGISLATURE

INTRODUCED MAY 10, 2018

Sponsored by:

Assemblywoman AMY H. HANDLIN

District 13 (Monmouth)

Co-Sponsored by:

Assemblymen Harold J. Wirths and Space

SYNOPSIS

Proposes constitutional amendment to provide for enactment of laws concerning property tax reform, campaign finance, lobbying, government ethics, and elections procedure by Statewide initiative and referendum.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/8/2018)

ACR170 HANDLIN

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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 **WHEREAS**, The republican form of government affords the surest
6 means by which the people, having established the state for their
7 protection, may subordinate the government's power to the will
8 of the people; and

9 **WHEREAS**, The will of the people will achieves its most eloquent
10 expression in the election, at regular intervals, of public officers
11 to have responsibility for enacting that will as law and for
12 implementing that law through proper regulation and
13 enforcement; and

14 **WHEREAS**, Our Constitution further provides for popular control
15 over the power of the State through its guarantee of the right of
16 the people, in time of election and at any other time, to speak
17 freely, to assemble peaceably, and to petition the government for
18 redress of their grievances; and

19 **WHEREAS**, The preservation of effective popular sovereignty is
20 essential to the just and healthy functioning of our political
21 system, and is threatened when special, narrow interests exercise
22 undue influence, sometimes out of public view, upon the
23 electoral process or upon the determination and execution of
24 public policy; and

25 **WHEREAS**, It is a paradox that certain ills which frustrate the
26 declared and evident purposes for which republican government
27 is ordained have no ready remedy in the normal operation of the
28 principal mechanisms of the government; and

29 **WHEREAS**, Among these ills are: escalating property taxes;
30 exposure of the electoral process to financial influences serving
31 narrow interests not in harmony with those of the public at large;
32 inadequate control of and publicity for the activities of those who
33 lobby the legislative and executive branches of government;
34 inadequate constraints upon conflicts of interest among public
35 officers; and deficient provision for fairness and openness in the
36 conduct of the electoral process; now, therefore,

37
38 **BE IT RESOLVED** by the General Assembly of the State of New
39 Jersey (the Senate concurring):

40
41 The following proposed amendment to the Constitution of the
42 State of New Jersey is hereby agreed to:

43
44 **PROPOSED AMENDMENT**

- 45
46 a. Amend Article I, paragraph 2 as follows:
47 2. a. All political power is inherent in the people. Government
48 is instituted for the protection, security, and benefit of the people,

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 and they have the right at all times to alter or reform the same,
2 whenever the public good may require it.

3 b. The people reserve unto themselves the power to recall, after
4 at least one year of service, any elected official in this State or
5 representing this State in the United States Congress. The
6 Legislature shall enact laws to provide for such recall elections.
7 Any such laws shall include a provision that a recall election shall
8 be held upon petition of at least 25% of the registered voters in the
9 electoral district of the official sought to be recalled. If legislation
10 to implement this constitutional amendment is not enacted within
11 one year of the adoption of the amendment, the Secretary of State
12 shall, by regulation, implement the constitutional amendment,
13 except that regulations adopted by the Secretary of State shall be
14 superseded by any subsequent legislation consistent with this
15 constitutional amendment governing recall elections. The
16 sufficiency of any statement of reasons or grounds procedurally
17 required shall be a political rather than a judicial question.

18 c. The people reserve unto themselves the power of initiative to
19 propose to the Legislature laws, that may include such provisions as
20 may be reasonably necessary for their implementation and
21 enforcement, to provide for property tax reform; to regulate the
22 financing of campaigns in support of or opposition to the
23 nomination, election, or defeat of a candidate for elective public
24 office, or the recall from an office of the person holding that office,
25 or in support of or opposition to the passage or defeat of a public
26 question; or to regulate the practice of influencing or attempting to
27 influence the proposal, consideration, or passage or adoption of
28 legislation by public bodies, or the proposal, consideration, or
29 adoption of rules and regulations by public bodies and officers; or
30 to establish rules of ethics for public officials; or to govern the
31 conduct of the electoral process; and to approve or reject the same
32 at the polls in a general election if substantially similar legislation is
33 not enacted by the Legislature and the Governor, within a period to
34 be established by law but not exceeding six months from the date of
35 submission to the Legislature of the initiative petition proposing
36 that law. The determination of whether legislation enacted by the
37 Legislature and the Governor is substantially similar to a law
38 proposed by an initiative petition hereunder shall be made by
39 sponsors of the petition in accordance with the procedures the
40 Legislature shall provide by general law.

41 The people also reserve unto themselves the power of
42 referendum to propose to the Legislature the repeal of any law, or
43 any section or part thereof, embracing any of the subjects specified
44 in this subparagraph, and to approve or reject the repeal at the polls
45 in a general election if the repeal is not enacted by the Legislature
46 and the Governor, within a period to be established by law but not
47 exceeding six months from the date of submission to the Legislature
48 of the referendum petition proposing that repeal.

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

b. Amend the Title of Article II as follows:

ARTICLE II
ELECTIONS ~~【AND】~~, SUFFRAGE AND
INITIATIVE AND REFERENDUM

c. Amend Article II by the addition of new Section III as follows:

SECTION III

1. (a) The number of signatures of registered voters required upon an initiative petition proposing a law of enactment under subparagraph c. of paragraph 2 of Article I of this Constitution, or a referendum petition proposing a public question effecting repeal under that subparagraph, in order for that petition to be submitted to the Legislature shall be equal to at least eight percent 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.

(b) 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. The Secretary of State may employ random sampling techniques, meeting ordinary professional standards of statistical reliability, as the Legislature may provide by law or, in the absence of these provisions, 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.

(c) An initiative or referendum petition which is not filed with the Secretary of State as required under subparagraph (b) of this paragraph within the 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 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.

1 3. If, at a general election, a law proposed by an initiative
2 petition is not approved or a law whose continuance is the subject
3 of a public question proposed by a referendum petition is not
4 rejected, neither the proposed law nor the public question
5 concerning the law which was the subject of the referendum
6 petition, nor one to effect the same or substantially the same change
7 shall be submitted to the people before the third general election
8 thereafter.

9 4. (a) Prior to the submission to the voters of a law of
10 enactment proposed by an initiative petition or a law of repeal
11 proposed by a referendum petition, a party may seek a declaratory
12 judgment of the Supreme Court that the proposed law of enactment
13 or repeal (1) would be invalid under the Constitution or laws of the
14 United States, or (2) cannot be enacted or given effect as legislation
15 under this State Constitution, if the pleading requesting the
16 judgment is filed with the Supreme Court not later than the 90th day
17 following the submission of the petition to the Legislature. This
18 action shall be heard and decided, and appropriate relief granted,
19 with all due expedition, but in no case later than six months
20 following that submission.

21 (b) A law submitted to the people by initiative petition and
22 approved by the people shall not be held unconstitutional or void on
23 account of the insufficient number of signatures on the petition by
24 which the submission of the same was procured, nor shall the repeal
25 of any law, or section or part thereof, resulting from a referendum
26 be held invalid for the same insufficiency.

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

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

34 (b) Any law proposed by an initiative petition and the repeal of
35 any law whose continuance is the subject of a public question
36 proposed by a referendum petition shall become effective on the
37 date provided by that proposed law or by that public question, or if
38 no date is so provided, then upon the 30th day following enactment
39 or approval of the law proposed by an initiative petition or
40 following the rejection of a law as a result of a referendum.

41 7. The Secretary of State shall cause a law proposed by an
42 initiative petition or a public question proposed by a referendum
43 petition which is to be submitted to the people to be published at
44 least once in one or more newspapers of each county, if any be
45 published therein, not less than 60 days prior to that submission to
46 the people.

47 8. (a) If conflicting laws proposed by initiative petitions, or
48 enacted by the Legislature and the Governor or passed by the
49 Legislature in response to initiative petitions and submitted to the

1 voters, are approved at the same election by a majority of the total
2 number of votes cast for and against the same, the one receiving the
3 highest number of affirmative votes shall be the law.

4 (b) If there are submitted to the people at the same election
5 public questions proposed by referendum petitions effecting the
6 repeal of an existing law in its entirety and sections or parts of the
7 same law, or laws enacted by the Legislature and the Governor in
8 response to those referendum petitions, and those public questions
9 or laws shall each receive a majority of the votes cast thereon, the
10 one receiving the highest number of affirmative votes shall be the
11 law.

12 9. No law proposed by an initiative or referendum petition and
13 approved by the people shall be subject to the veto power of the
14 Governor.

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

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

20 (a) A referendum question with respect to a law in its entirety
21 and a referendum question with respect to any section or part of the
22 same law; or

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

25 11. If legislation is not enacted within one year of the adoption
26 of this constitutional amendment which implements this
27 constitutional amendment, then this constitutional amendment shall
28 be construed as being self-executing, and in that case, shall be
29 administered by the Secretary of State, provided that the regulations
30 adopted by the Secretary of State shall be superseded by subsequent
31 legislation consistent with this constitutional amendment governing
32 the conduct of the initiative and referendum process.

33
34 2. When this proposed amendment to the Constitution is finally
35 agreed to pursuant to Article IX, paragraph 1 of the Constitution, it
36 shall be submitted to the people at the next general election
37 occurring more than three months after the final agreement and
38 shall be published at least once in at least one newspaper of each
39 county designated by the President of the Senate, the Speaker of the
40 General Assembly and the Secretary of State, not less than three
41 months prior to the general election.

42
43 3. This proposed amendment to the Constitution shall be
44 submitted to the people at that election in the following manner and
45 form:

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

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

1 If you favor the proposition printed below make a cross (X), plus
2 (+) or check (T) in the square opposite the word ‘Yes.’ If you are
3 opposed thereto make a cross (X), plus (+) or check (T) in the
4 square opposite the word ‘No.’

5 In every municipality the following question:
6

	YES	<p>CONSTITUTIONAL AMENDMENT TO ESTABLISH INITIATIVE AND REFERENDUM FOR CERTAIN LAWS</p> <p>Do you approve amending the Constitution to establish an initiative and referendum process for certain laws? The laws would be limited to the financing of political campaigns, elections, lobbying, and ethics for public officials. The laws would also be limited to property tax reform. This process would let the people repeal, propose, and vote for these types of laws.</p>
	NO	<p>INTERPRETIVE STATEMENT</p> <p>This amendment establishes an initiative and referendum process for certain laws. This process would allow the people to propose and vote to adopt laws that deal with particular issues. The process would also allow the people to vote to repeal certain laws.</p> <p>The process would be used only for property tax reform; or to regulate the financing of political campaigns, lobbying, ethics for public officials, and elections.</p> <p>Under this process, the people could propose a law, or the repeal of a law, to the Legislature. If the law is not adopted or repealed, the proposal would be placed before the people for a vote at a general election. This would also happen if the law is adopted, but not in the way proposed.</p> <p>The number of people who sign a proposal would have to equal at least eight percent of the number of votes cast in the last election for Governor.</p>

1 SCHEDULE

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3 This constitutional amendment shall become a part of the
4 Constitution on the 30th day next following the general election at
5 which it is approved by the voters, except that if, at that election,
6 one or more other public questions proposing constitutional
7 amendments providing for the establishment of the initiative and
8 referendum power are submitted to the voters, then this
9 constitutional amendment shall not be deemed to have been
10 approved, and shall be void and without effect, unless the number
11 of legally qualified voters voting to approve this constitutional
12 amendment shall be greater than the number of voters voting to
13 approve any of those other constitutional amendments.
14

15
16 STATEMENT

17
18 This concurrent resolution proposes to amend the State
19 Constitution to provide the people of the State with the power of
20 indirect initiative and referendum to enact laws to provide for
21 property tax reform, and to govern campaign finance, lobbying,
22 government ethics, and the electoral process.

23 This constitutional amendment provides the people with the
24 ability to propose to the Legislature a new law on any of these
25 subjects and to place before the Legislature the question of the
26 continuance in force of any existing law on the a subject. The
27 Legislature and the Governor are to respond to the proposal within a
28 specific time period. Otherwise, the people are to have the power to
29 enact the proposed new law, or to repeal the existing law, at the
30 polls.

31 To qualify a law of enactment or repeal, proposed by an
32 initiative petition or referendum petition, respectively, for
33 submission to the Legislature, the petition which proposes it must
34 contain a number of signatures equal to at least eight percent of the
35 number of votes cast for the office of Governor in the State in the
36 gubernatorial election preceding certification of the petition for
37 circulation. A limit on the time allowed for collecting the required
38 number of signatures may be established by law but shall not be
39 less than one year.

40 Before a petition could be submitted to the Legislature, it would
41 be required to be filed with the Secretary of State, who is to have 60
42 days to determine whether the petition was signed by sufficient
43 numbers of registered voters. The Secretary of State is authorized
44 to make this determination on the basis of a sample of the
45 signatures to the petition chosen in accordance with appropriate
46 random sampling techniques. If not found within the 60-day period
47 to have been signed by insufficient numbers of registered voters,
48 the petition would be deemed eligible for submission to the
49 Legislature.

1 Once a law of enactment proposed by initiative petition or a law
2 of repeal proposed by referendum petition is submitted to the
3 Legislature, the Legislature and the Governor would have the period
4 of time as shall be established by law, but not exceeding six
5 months, in which to enact a substantially similar law of enactment
6 or enact the repeal, as appropriate. In the absence of a timely
7 response, the proposed law of enactment or repeal would be
8 submitted to the people.

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

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

30 The constitutional amendment provides that no law proposed by
31 an initiative or referendum petition and approved by the people
32 would be subject to the veto power of the Governor. It also states
33 that if conflicting laws proposed by the initiative process are
34 approved by the people at the same election, the one receiving the
35 highest number of affirmative votes would be deemed approved.

36 The constitutional amendment includes a schedule providing
37 that, if one or more other proposed constitutional amendments
38 establishing the power of initiative and referendum are on the ballot
39 at the same election at which it is submitted to the people, then it
40 would become effective only if it passes with a greater number of
41 votes than those other proposed amendments receive.