

ASSEMBLY CONCURRENT RESOLUTION No. 128

STATE OF NEW JERSEY

INTRODUCED JUNE 9, 1997

By Assemblymen CARROLL, GREGG, Garrett, Talarico and
Bucco

1 A CONCURRENT RESOLUTION proposing to amend Article IV, Section VI,
2 paragraph 2 of the Constitution of the State of New Jersey.

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

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

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10 PROPOSED AMENDMENT

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12 Amend Article IV, Section VI, paragraph 2 to read as follows:

13 2. The Legislature may enact general laws under which municipalities, other
14 than counties, may adopt zoning ordinances limiting and restricting to specified
15 districts and regulating therein, buildings and structures, according to their
16 construction, and the nature and extent of their use, and the nature and extent
17 of the uses of land, and the exercise of such authority shall be deemed to be
18 within the police power of the State. In the absence of a specific legislative
19 mandate, no municipality may be judicially compelled to provide for any
20 particular use of land within its boundaries, including but not limited to the
21 provision of opportunities for low and moderate income housing. Such laws
22 shall be subject to repeal or alteration by the Legislature.

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24 2. When this proposed amendment to the Constitution is finally agreed to
25 pursuant to Article IX, paragraph 1 of the Constitution, it shall be submitted
26 to the people at the next general election occurring more than three months
27 after the final agreement and shall be published at least once in at least one
28 newspaper of each county designated by the President of the Senate, the
29 Speaker of the General

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is
not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 Assembly and the Secretary of State, not less than three months prior to the
 2 general election.

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4 3. This proposed amendment to the Constitution shall be submitted to the
 5 people at that election in the following manner and form:

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

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

10 If you favor the proposition printed below make a cross (X), plus (+), or
 11 check (T) in the square opposite the word "Yes." If you are opposed thereto
 12 make a cross (X), plus (+) or check (T) in the square opposite the word
 13 "No."

14 b. In every municipality the following question:

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<p>16 17 18 19 20 21 22 23 24 25 26 27 28 29</p>	<p>YES</p>	<p style="text-align: center;">PROHIBITS MUNICIPALITIES FROM BEING JUDICIALLY COMPELLED TO PROVIDE FOR PARTICULAR LAND USES, INCLUDING AFFORDABLE HOUSING</p> <p>Shall the amendment to Article IV, Section VI, paragraph 2 of the Constitution, agreed to by the Legislature, and providing that in the absence of a specific legislative mandate, municipalities may not be judicially compelled to provide for any particular land use within municipal borders, including but not limited to the provision of low and moderate income housing, be approved?</p>
<p>30 31 32 33 34 35 36 37 38</p>	<p>NO</p>	<p style="text-align: center;">INTERPRETIVE STATEMENT</p> <p>If approved, this proposed amendment would limit the power of the courts, in the absence of a specific legislative mandate, to compel municipalities to provide for any particular land use within municipal boundaries, including the provision of opportunities for low and moderate income housing.</p>

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STATEMENT

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42 In the various Mt. Laurel cases, the New Jersey Supreme Court

1 determined that the provision of low and moderate income housing was the
2 constitutional obligation of every municipality within the State. This reading of
3 the Constitution was inconsistent with the text and history of the instrument.
4 This amendment corrects that misreading by providing that in the absence of
5 a specific legislative mandate, municipalities may not be judicially compelled
6 to provide for any particular land uses within municipal borders, including
7 opportunities for low and moderate income housing.

8 While the provision of low and moderate income housing is a salutary goal,
9 whether and where to provide such housing is a matter for legislative, not
10 judicial decision.

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15 Proposes constitutional amendment to prevent municipalities from being
16 judicially compelled to accept certain land uses.