

ASSEMBLY CONCURRENT RESOLUTION No. 25

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman ROONEY

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

3

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

6

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

9

10 PROPOSED AMENDMENT

11

12 a. Amend Article I, paragraph 2, as follows:

13 2. a. All political power is inherent in the people.

14 b. Government is instituted for the protection, security, and benefit of the
15 people, and they have the right at all times to alter or reform the same,
16 whenever the public good may require it.

17 c. The people reserve unto themselves: the power of initiative to propose
18 to the Legislature amendments to the Constitution and to approve or reject the
19 same at the polls in a general election if the Legislature does not, within a
20 period to be established by law but not exceeding six months from the date of
21 submission to the Legislature of the initiative petition proposing that
22 amendment, complete action to provide for the submission of the proposed
23 amendment or a substantially similar amendment to the people not later than
24 the first general election occurring after the 120th day following the expiration
25 of that period; and the power of initiative to propose to the Legislature laws
26 which are not only for the purpose of repeal and to approve or reject the same
27 at the polls in a general election if substantially similar legislation is not enacted
28 by the Legislature and the Governor, within a period to be established by law
29 but not exceeding six months from the date of submission to the Legislature of
30 the initiative petition proposing that law. The determination of whether a

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 constitutional amendment proposed by the Legislature or legislation enacted
2 by the Legislature and the Governor is substantially similar to a constitutional
3 amendment or a law proposed by an initiative petition hereunder shall be made
4 by sponsors of the petition in accordance with such procedure as the
5 Legislature shall provide by general law.

6 The people also reserve unto themselves the power of referendum to
7 propose to the Legislature the repeal of any law, or any section or part
8 thereof, and to approve or reject such repeal at the polls in a general election
9 if such repeal is not enacted by the Legislature and the Governor, within a
10 period to be established by law but not exceeding six months from the date of
11 submission to the Legislature of the referendum petition proposing that repeal.

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

18 (cf: Art. I, para.2)

19 b. Amend Article II as follows:

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21

ARTICLE II

22

ELECTIONS [AND], SUFFRAGE AND

23

INITIATIVE AND REFERENDUM

24

SECTION I

25

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

31 (cf: Art. II, para. 1)

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

40 (cf: Art. II, para. 2, amended effective Dec. 8, 1988)

41 3. (a) Every citizen of the United States, of the age of 18 years, who shall
42 have been a resident of this State and of the county in which he claims his vote
43 30 days, next before the election, shall be entitled to vote for all officers that

1 now are or hereafter may be elective by the people, and upon all questions
2 which may be submitted to a vote of the people; and

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

4 (c) Any person registered as a voter in any election district of this State
5 who has removed or shall remove to another state or to another county within
6 this State and is not able there to qualify to vote by reason of an insufficient
7 period of residence in such state or county, shall, as a citizen of the United
8 States, have the right to vote for electors for President and Vice President of
9 the United States, only, by Presidential Elector Absentee Ballot, in the county
10 from which he has removed, in such manner as the Legislature shall provide.
11 (cf: Art. II. para. 3, amended effective Dec. 5, 1974)

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

19 (cf: Art. II, para. 4)

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

23 (cf: Art. II, para. 5)

24 6. No idiot or insane person shall enjoy the right of suffrage.

25 (cf: Art.II, para. 6)

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

30 (cf: Art. II, para. 7)

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SECTION II

34

35 1. (a) The number of signatures of registered voters required upon an
36 initiative petition proposing a constitutional amendment in order for that petition
37 to be submitted to the Legislature shall be equal to at least 12% of the number
38 of votes cast for the office of Governor in the State in the gubernatorial
39 election preceding certification of the petition for circulation as shall be
40 provided by law, provided that the petition signatures shall include signatures
41 from each of the four regions of the State hereinafter designated equal in
42 number to at least 12% of the total number of votes cast for the office of
43 Governor in those respective regions in that gubernatorial election.

1 **(b) The number of signatures of registered voters required upon an**
2 **initiative petition proposing a law of enactment or a referendum petition**
3 **proposing a public question effecting repeal in order for that petition to be**
4 **submitted to the Legislature shall be equal to at least 8% of the number of**
5 **votes cast for the office of Governor in the State in the gubernatorial election**
6 **preceding certification of the petition for circulation as shall be provided by**
7 **law, provided that the petition signatures shall include signatures from each of**
8 **the four regions of the State hereinafter designated equal in number to at least**
9 **8% of the total number of votes cast for the office of Governor in those**
10 **respective regions in that gubernatorial election.**

11 **(c) For the purposes of subparagraphs (a) and (b) of this paragraph, the**
12 **regions shall be: a northeastern region, comprising the counties of Bergen,**
13 **Essex, Hudson, Passaic, and Union; a northwestern region, comprising the**
14 **counties of Hunterdon, Morris, Somerset, Sussex, and Warren; a central**
15 **region, comprising the counties of Burlington, Mercer, Middlesex, Monmouth,**
16 **and Ocean; and a southern region, comprising the counties of Atlantic,**
17 **Camden, Cape May, Cumberland, Gloucester, and Salem.**

18 **(d) Before an initiative petition or referendum petition is submitted to the**
19 **Legislature, petitioners shall file the petition with the Secretary of State, who**
20 **shall within 60 days after that filing determine whether the petition includes**
21 **sufficient numbers of signatures of registered voters as required under**
22 **subparagraph (a) of this paragraph, in the case of an initiative petition**
23 **proposing a constitutional amendment, or subparagraph (b) of this paragraph,**
24 **in the case of an initiative petition proposing a law or a referendum petition.**
25 **The Secretary of State may employ such random sampling techniques, meeting**
26 **ordinary professional standards of statistical reliability, as the Legislature may**
27 **provide by law or, in the absence of such provision, as the Secretary of State**
28 **shall find to be effective and convenient. If, on or before the 60th day**
29 **following the filing, the Secretary of State determines that sufficient numbers**
30 **of signatures so required to be included on the petition shall not have been**
31 **obtained, that petition shall be deemed void and without effect. Otherwise, the**
32 **petition shall be deemed eligible for submission to the Legislature.**

33 **(e) An initiative or referendum petition which is not filed with the Secretary**
34 **of State as required under subparagraph (d) of this paragraph within such**
35 **period following the certification thereof for circulation as may be established**
36 **by law but not less than one year shall be void and without effect.**

37 **2. No law proposed by an initiative petition which was enacted by a vote**
38 **of the people, nor any law enacted by the Legislature and the Governor in**
39 **response to such a petition, shall be amended, repealed, superseded, nullified**
40 **or suspended, and no law which is repealed as a result of a referendum shall**
41 **be reenacted, by the Legislature for a period of two years except by a vote of**
42 **three-fourths of all the members of each House, or for a period of three years**
43 **after the two-year period except by a vote of three-fifths of all the members**

1 of each House, after at least 20 calendar days shall have elapsed following the
2 introduction of a bill to amend, repeal, supersede, nullify, suspend or reenact,
3 as the case may be, and a public hearing has been held thereon.

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

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

23 (b) No law or amendment to the Constitution submitted to the people by
24 initiative petition and approved by the people shall be held unconstitutional or
25 void on account of the insufficient number of signatures on the petition by
26 which the submission of the same was procured; nor shall the repeal of any
27 law, or section or part thereof, resulting from a referendum be held invalid for
28 the same insufficiency.

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

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

36 (b) Any law or constitutional amendment proposed by an initiative petition
37 affecting taxes or appropriations and enacted by the people shall become
38 effective at the beginning of the fiscal year next following passage or approval
39 of the law or constitutional amendment, and any law affecting taxes or
40 appropriations whose continuance is the subject of a public question proposed
41 by a referendum petition shall cease to be effective at the beginning of the
42 fiscal year next following the rejection of that law. Any other law,
43 constitutional amendment, or public question proposed by such a petition shall

1 become effective on the date provided by that proposed law or constitutional
2 amendment or by that public question, or if no such date is so provided, then
3 upon the 30th day following enactment or approval of the law or constitutional
4 amendment, as appropriate, proposed by an initiative petition or following the
5 rejection of a law as a result of a referendum.

6 7. The Secretary of State shall cause a law or constitutional amendment
7 proposed by an initiative petition or a public question proposed by a
8 referendum petition which is to be submitted to the people to be published at
9 least once in one or more newspapers of each county, if any be published
10 therein, not less than three months prior to that submission to the people.

11 8. (a) If conflicting laws or conflicting amendments to the Constitution
12 proposed by initiative petitions, or enacted by the Legislature and the
13 Governor or passed by the Legislature in response to initiative petitions and
14 submitted to the voters, are approved at the same election by a majority of the
15 total number of votes cast for and against the same, the one receiving the
16 highest number of affirmative votes shall be the law, or in the case of
17 amendments to the Constitution shall be the amendment to the Constitution.

18 (b) If there are submitted to the people at the same election public
19 questions proposed by referendum petitions effecting the repeal of an existing
20 law in its entirety and sections or parts of the same law, or laws enacted by the
21 Legislature and the Governor in response to those referendum petitions, and
22 those public questions or laws shall each receive a majority of the votes cast
23 thereon, the one receiving the highest number of affirmative votes shall be the
24 law.

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

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

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

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

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

36 11. If legislation is not enacted within one year of the adoption of this
37 constitutional amendment which implements this constitutional amendment,
38 then this constitutional amendment shall be construed as being self-executing,
39 and in that case, shall be administered by the Secretary of State, provided that
40 the regulations adopted by the Secretary of State shall be superseded by
41 subsequent legislation consistent with this constitutional amendment governing
42 the conduct of the initiative and referendum process.

1 2. When this proposed amendment to the Constitution is finally agreed to,
2 pursuant to Article IX, paragraph 1 of the Constitution, it shall be submitted
3 to the people at the next general election occurring more than three months
4 after such final agreement and shall be published at least once in at least one
5 newspaper of each county designated by the President of the Senate and the
6 Speaker of the General Assembly and the Secretary of State, not less than
7 three months prior to said general election.

8

9 3. This proposed amendment to the Constitution shall be submitted to the
10 people at said election in the following manner and form:

11 There shall be printed on each official ballot to be used at such general
12 election the following:

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

15 If you favor the proposition printed below make a cross (X), plus (+) or
16 check (O) in the square opposite the word "Yes."

17 If you are opposed thereto make a cross (X), plus (+) or check (O) in the
18 square opposite the word "No."

19 b. In every municipality the following question:

1		ESTABLISHES THE INITIATIVE AND REFERENDUM PROCESS IN THE STATE
2		
3		
4		Shall the amendment to Article I, paragraph 2 and
5		Article II of the Constitution, agreed to by the
6	YES	Legislature, establishing the process of initiative and
7		referendum in the State, be adopted?
8		
9		INTERPRETIVE STATEMENT
10		Adoption of this amendment would establish an
11		indirect initiative and referendum process in this
12		State whereby proposed constitutional amendments
13		and proposals that new laws be enacted or existing
14		laws be considered for repeal would be submitted
15		to the Legislature for action. If no action is taken
16		upon a proposal, or if such action as is taken is
17		addressed to a constitutional amendment or law not
18		substantially similar to that which has been
19		proposed, the proposed constitutional amendment
20		or law would be placed on the ballot. The number
21		of signatures required to submit a proposed
22		constitutional amendment to the Legislature would
23		be at least 12% of the votes cast in the State in the
24		preceding gubernatorial election, and the number of
25		signatures required to submit a proposed law to the
26	NO	Legislature would be at least 8% of the votes cast
27		in that election. In each case, a proportional
28		number of the signatures would have to come from
29		each of four regions in the State; those regions
30		include a northeastern region (the counties of
31		Bergen, Essex, Hudson, Passaic, and Union), a
32		northwestern region (the counties of Hunterdon,
33		Morris, Somerset, Sussex, and Warren), a central
34		region (the counties of Burlington, Mercer,
35		Middlesex, Monmouth, and Ocean), and a southern
36		region (the counties of Atlantic, Camden, Cape
37		May, Cumberland, Gloucester, and Salem).
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1 SCHEDULE

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

13

14

15 STATEMENT

16

17 This concurrent resolution proposes to amend the State Constitution to
18 provide the people of the State with the power of indirect initiative and
19 referendum.

20 This constitutional amendment provides the people with the ability to
21 propose to the Legislature a constitutional amendment or new law and to place
22 before the Legislature the question of the continuance in force of any existing
23 law. The Legislature (and the Governor, in the case of a proposal to enact or
24 repeal a law) are to respond to such a proposal within a specific time period;
25 otherwise, the people are to have the power to adopt or enact the proposed
26 constitutional amendment or new law, or to reject the existing law, at the polls.
27 The power of initiative and referendum is not to include the power to propose
28 constitutional amendments or laws to require or prohibit the siting of any
29 facility in a specific county or class of counties, or in a specific municipality or
30 class of municipalities.

31 To qualify a constitutional amendment for submission to the Legislature, the
32 petition which proposes it must contain a number of signatures equal to at least
33 12% of the number of votes cast for the office of Governor in the State in the
34 gubernatorial election preceding certification of the petition for circulation. To
35 qualify a law of enactment or repeal, proposed by an initiative petition or
36 referendum petition, respectively, for submission to the Legislature, the petition
37 which proposes it must contain a number of signatures equal to at least 8% of
38 the number of votes cast for the office of Governor in the State in the
39 gubernatorial election preceding certification of the petition for circulation.
40 These signature requirements would apply regionally as well as Statewide: the
41 petition must include signatures from five counties in the northeastern region of
42 the State (the counties of Bergen, Essex, Hudson, Passaic, and Union), five
43 counties in the northwestern region of the State (the counties of Hunterdon,

1 Morris, Somerset, Sussex, and Warren), five counties in the central region of
2 the State (the counties of Burlington, Mercer, Middlesex, Monmouth, and
3 Ocean), and six counties in the southern region of the State (the counties of
4 Atlantic, Camden, Cape May, Cumberland, Gloucester, and Salem), equal in
5 number to at least 12% or 8%, as appropriate, of the votes cast for the office
6 of Governor in that preceding gubernatorial election within those regions. A
7 limit on the time allowed for collecting the required number of signatures may
8 be established by law but shall not be less than one year.

9 Before a petition could be submitted to the Legislature, it is to be filed with
10 the Secretary of State, who is to have 60 days to determine whether the
11 petition was signed by sufficient numbers of registered voters. The Secretary
12 of State is authorized to make this determination on the basis of a sample of
13 the signatures to the petition chosen in accordance with appropriate random
14 sampling techniques. If not found within the 60-day period to have been
15 signed by insufficient numbers of registered voters, the petition could be
16 submitted to the Legislature.

17 Once a constitutional amendment or law of enactment proposed by
18 initiative petition or a law of repeal proposed by referendum petition is
19 submitted to the Legislature, the Legislature (and the Governor, in the case of
20 a proposal to enact or repeal a law) shall have such period of time as shall be
21 established by law, but not exceeding six months, in which to propose a
22 substantially similar constitutional amendment, enact a substantially similar law
23 of enactment, or enact the repeal, as appropriate. In the absence of such
24 timely response, the proposed constitutional amendment or law of enactment
25 or repeal shall be submitted to the people.

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

31 If a constitutional amendment or law proposed by initiative petition and
32 submitted to the people is not approved, or a law whose continuance is the
33 subject of a public question submitted to the people in a referendum is not
34 rejected, then neither that amendment, law or public question, nor one to effect
35 the same or substantially the same change, may be submitted to the people for
36 approval or rejection, as appropriate, before the third general election
37 thereafter. If a law proposed by initiative petition is enacted by the people or
38 a law in response to such a petition is enacted by the Legislature and the
39 Governor, or if an existing law which is the subject of a referendum petition is
40 repealed by the people or the Legislature and the Governor, any revision or
41 repeal of the law so enacted, or reenactment of the law so repealed, would
42 require a three-fourths vote in each House of the Legislature during the first
43 two years following that enactment or repeal or a three-fifths vote in each

1 House during the three years following that two-year period.

2 The constitutional amendment provides that no law proposed by an
3 initiative or referendum petition and approved by the people shall be subject
4 to the veto power of the Governor. It also states that if conflicting
5 constitutional amendments or laws proposed by the initiative process are
6 approved by the people at the same election, the one receiving the highest
7 number of affirmative votes shall be deemed approved.

8 The constitutional amendment includes a schedule providing that, if one or
9 more other proposed constitutional amendments establishing the power of
10 initiative and referendum are on the ballot at the same election at which it is
11 submitted to the people, then it shall become effective only if it passes with a
12 greater number of votes than those other proposed amendments receive.

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17 Proposes constitutional amendment to provide for Statewide initiative and
18 referendum.