

SENATE, No. 268

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Senator SINAGRA

- 1 AN ACT to provide for a State of New Jersey limited constitutional  
2 convention to consider the responsibility of the Legislature for the  
3 maintenance and support of a thorough and efficient system of free  
4 public schools, providing for submission of the question of the  
5 convention to the people and for the election of delegates,  
6 providing for the submission of the proposals of the convention to  
7 the people, and making an appropriation therefor.  
8
- 9 WHEREAS, The New Jersey State Constitution requires the  
10 Legislature to provide for the maintenance and support of a  
11 thorough and efficient system of free public schools; and
- 12 WHEREAS, Since 1970, the State of New Jersey has been involved in  
13 a series of legal challenges which have been based on the assertion  
14 that the constitutional requirement has not been met; and
- 15 WHEREAS, On February 13, 1970, Jersey City filed a complaint in the  
16 Superior Court of Hudson County on behalf of Kenneth Robinson,  
17 which challenged the State's system of educational funding under  
18 the "Bateman-Tanzman Act;" and
- 19 WHEREAS, Over the next four years there were six State Supreme  
20 Court decisions in regard to Robinson v. Cahill, which invalidated  
21 the "Bateman-Tanzman Act" and required the Legislature to adopt  
22 a new system of school finance; and
- 23 WHEREAS, The result was enactment of the "Public School Education  
24 Act of 1975," also known as Chapter 212, although legislation to  
25 fund the statute was not adopted until the State Supreme Court  
26 closed the schools and the Legislature responded by approving the  
27 first State income tax; and
- 28 WHEREAS, On February 5, 1981, the Education Law Center filed a  
29 class action suit in the Superior Court of Mercer County on behalf  
30 of 20 children, Abbott v. Burke, which contended that Chapter 212  
31 violated the thorough and efficient clause; and
- 32 WHEREAS, Nine years later on June 5, 1990, the New Jersey Supreme  
33 Court unanimously found in favor of the plaintiffs and held that  
34 Chapter 212 was unconstitutional as applied to the poorest 28  
35 districts and that the system of school funding was neither thorough

1 nor efficient; and

2 **WHEREAS**, In response to the Abbott decision, the Legislature enacted  
3 the "Quality Education Act of 1990," known as the QEA, which  
4 provided for a major restructuring of the State's school finance  
5 system; and

6 **WHEREAS**, the plaintiffs in the Abbott case filed a motion in the New  
7 Jersey Supreme Court on June 12, 1991 asserting that the QEA  
8 failed to comply with the court's mandates as outlined in the 1990  
9 decision; and

10 **WHEREAS**, On August 31, 1993, Judge Paul Levy of the Mercer  
11 County Superior Court, to which the State Supreme Court had  
12 remanded the case, held that the QEA was unconstitutional, and his  
13 decision was unanimously confirmed by the State Supreme Court  
14 on July 12, 1994; and

15 **WHEREAS**, After 25 years of litigation and legislation spanning five  
16 gubernatorial administrations, there remains no resolution of the  
17 issue of what constitutes a thorough and efficient system of  
18 education; and

19 **WHEREAS**, It is fitting and appropriate to convene a State limited  
20 constitutional convention to consider this issue and to propose to  
21 the people those revisions to the State Constitution which the  
22 convention deems are necessary or desirable; now, therefore

23

24 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
25 *of New Jersey:*

26

27 1. A State of New Jersey limited constitutional convention,  
28 comprised of delegates elected from the legislative districts, shall,  
29 subject to a popular referendum as herein provided, convene at  
30 Rutgers, the State University, in New Brunswick on January 6, 1997,  
31 at 10 A.M., or as soon thereafter as a quorum shall be present.

32

33 2. The constitutional convention shall consider proposals to revise  
34 and amend the provisions of the present State Constitution relating to  
35 the responsibility of the Legislature to provide for the maintenance and  
36 support of a thorough and efficient system of free public schools for  
37 the instruction of all the children in the State between the ages of five  
38 and 18 years.

39

40 3. The constitutional convention shall complete and agree upon its  
41 consideration of the revisions and amendments of the present  
42 Constitution relating to a thorough and efficient system of free public  
43 education on or before April 11, 1997, and shall provide for  
44 submission thereof at the general election to be held on November 4,  
45 1997, for approval or rejection by the legal voters, either as a whole

1 or in any parts and with any alternatives as the convention may deem  
2 desirable.

3

4 4. The constitutional convention shall consist of 120 delegates,  
5 with three delegates elected from each of the 40 legislative districts.  
6 Each delegate shall be a legal voter in the legislative district in which  
7 the delegate is elected.

8

9 5. To determine whether the constitutional convention instructed  
10 by the people as herein provided shall be convened, and to elect  
11 delegates to the convention if the people vote in favor thereof, a  
12 special election shall be held on November 5, 1996, at the same time,  
13 at the same places, using the same records and facilities, and by the  
14 same officers and employees as conduct the general election on that  
15 date. All public officials who perform services in connection with the  
16 special election shall serve without additional compensation. The  
17 provisions of Title 19 of the Revised Statutes, insofar as they are not  
18 inconsistent with the provisions of this act, shall apply to the  
19 nomination and election of delegates and to the submission of the  
20 questions.

21

22 6. Candidates for the office of delegate shall be nominated by  
23 petition filed with the Secretary of State, on or before September 12,  
24 1996. Each nominating petition shall be signed by the legally qualified  
25 voters of this State who reside within the legislative district in and for  
26 which the delegates nominated are to be elected, and the signers of  
27 each petition shall number at least 100.

28

29 7. Each nominating petition shall set forth the names, places of  
30 residence and post-office addresses of the candidate or candidates  
31 thereby nominated, that the nomination is for the office of delegate to  
32 the State constitutional convention which may be convened on January  
33 6, 1997, and that the petitioners are legally qualified to vote for the  
34 candidate or candidates and pledge themselves to support and vote for  
35 the persons named in the petition. Every voter signing a nominating  
36 petition shall add to his signature, his place of residence, post-office  
37 address and street number, if any. No voter shall sign a petition or  
38 petitions for a greater number of candidates than are to be elected in  
39 the legislative district in which he resides. Signers of petitions need  
40 not be members of the political party, if any, in which their nominees  
41 are designated, nor shall any member of a political party who signs the  
42 nominating petition of a member of another party or of a candidate  
43 permitted to use the designation of another political party lose his  
44 eligibility to vote in the primary election of the political party of which  
45 he is a member.

1       8. Any nominating petition may designate in not more than three  
2 words the political party, group, or principles with which the candidate  
3 or candidates therein named shall be identified on the official ballot;  
4 provided that no designation or slogan shall include or refer to the  
5 name of any person, corporation, association or political party unless  
6 the written consent of that person, corporation, association or political  
7 party is endorsed upon or annexed to and filed with the petition of  
8 nomination of the candidate or group of candidates desiring to use a  
9 slogan or designation. Consent to the use of the designation, a name,  
10 derivative or any part thereof of any political party by any candidate,  
11 whether or not a member of that party, may be given and evidenced by  
12 a certified copy of a duly adopted resolution of those members of the  
13 county committees of the party who represent those portions of the  
14 respective counties which comprise the legislative district for which  
15 the nomination is made, and consent may not be given to a greater  
16 number of candidates than are to be elected. Consent may be given to  
17 any candidate or group of candidates by more than one political party,  
18 but the name of any candidate shall not appear on the official ballot  
19 more than once.

20

21       9. Two or more candidates for nomination as delegate may in their  
22 nominating petitions request that their names be grouped and  
23 bracketed under a common designation or slogan to be named by  
24 them, and that the common designation or slogan shall be printed with  
25 their names on the official election ballot. If more than one candidate  
26 or group shall select the same slogan or designation, the petition first  
27 filed shall be entitled, if it otherwise complies with this act, to the use  
28 of that slogan or designation, and the Secretary of State shall so notify  
29 all candidates or groups whose petitions are thereafter filed with the  
30 same designation or slogan, and the notified candidate or group shall  
31 within two days select a new slogan or designation, subject to the  
32 consent required by this act.

33

34       10. Each nominating petition shall, before it may be filed with the  
35 Secretary of State, contain an acceptance of nomination in writing,  
36 signed by the candidate or candidates therein nominated, upon or  
37 annexed to the petition, or if the same person or persons be named in  
38 more than one petition, upon or annexed to one of those petitions.  
39 The acceptance shall certify that the candidate is a legally qualified  
40 voter in the legislative district for which he is nominated. The  
41 acceptance shall also certify that the nominee consents to stand as a  
42 candidate at the special election for the election of delegates to a State  
43 constitutional convention, and that if elected he agrees to take office  
44 and serve as a delegate from the legislative district in which he is  
45 nominated.

1       11. Each nominating petition shall be verified by an oath or  
2 affirmation of one or more of the signers thereof, taken and subscribed  
3 before a person qualified under the laws of New Jersey to administer  
4 an oath, to the effect that the petition was signed by each of the  
5 signers thereof in his proper handwriting, the signers are, to the best  
6 knowledge and belief of the affiant, legal voters of the legislative  
7 district as stated in the petition, and that the petition is prepared and  
8 filed in good faith for the sole purpose of endorsing the person or  
9 persons named therein in order to secure his or their selection as stated  
10 in the petition.

11

12       12. All nominating petitions, their acceptances, requests for the use  
13 of designations or slogans and certifications shall, when filed, be and  
14 remain open for public inspection during regular business hours of the  
15 Secretary of State under such reasonable regulation for their proper  
16 care and custody as the Secretary of State deems necessary.  
17 Objections to petitions, the determination of their validity, recourse to  
18 the courts by candidates believing themselves aggrieved, and  
19 amendment of defective petitions, shall conform to the provisions of  
20 Title 19 of the Revised Statutes relating to petitions directly  
21 nominating candidates for public office to be voted for in a general  
22 election. Vacancies in nominations which occur for any reason may be  
23 filed in the same manner as the original nomination by petition filed  
24 with the Secretary of State on or before September, 18, 1996.  
25 Nothing in this act, or in Title 19 of the Revised Statutes, shall be  
26 construed to authorize or require the county clerk to defer the printing  
27 of ballots, or the mailing of military service ballots, beyond the  
28 respective dates herein specifically provided.

29

30       13. A public question shall be submitted to the people by printing  
31 on each official ballot to be used in the general election the following:

32       If you approve the question as described below, make a cross (x),  
33 plus (+), or check (○) mark in the square opposite the word "Yes."

34       If you disapprove the question as described below, make a cross  
35 (x), plus (+), or check (○) mark in the square opposite the word "No."

1		STATE LIMITED CONSTITUTIONAL
2		CONVENTION
3		Do you favor the holding of a State limited
4		constitutional convention which shall consider
5		revisions and amendments of the present
6		Constitution relating to the responsibility of
7		the Legislature to provide for the maintenance
8		and support of a thorough and efficient
9		system of free public schools for the
10		instruction of all the children in the State
11	YES	between the ages of five and 18 years, and
12		which shall prepare for submission to the legal
13		voters at the general election to be held on
14		November 4, 1997, for their adoption or
15		rejection, in whole or in parts, any revisions
16		and amendments of the present Constitution
17		as the convention may deem desirable?
18		
19		INTERPRETIVE STATEMENT
20		Approval of this question would authorize the
21		convening of a State limited constitutional
22		convention to consider revisions and
23		amendments to the present Constitution
24		relating to the responsibility of the legislature
25		to provide for the maintenance and support of
26		a thorough and efficient system of free public
27		schools. Any revisions and amendments
28	NO	proposed by the convention would be
29		submitted to the legal voters at the 1997
30		general election. The convention, composed
31		of three delegates elected from each
32		legislative district, would meet at Rutgers, the
33		State University in New Brunswick beginning
34		on January 6, 1997 and conclude on or before
35		April 11, 1997.

36

37 There shall also be printed on each official ballot to be used in the  
38 general election the following:

39 Regardless of how you have voted on the State limited  
40 constitutional convention, vote below for your choice of delegates to  
41 the convention if one is to be held.

42

43 14. The Secretary of State, no later than September 20, 1996, shall  
44 direct to be delivered to each of the respective county clerks a notice  
45 stating the names of the candidates for delegate to the constitutional

1 convention to be elected within each legislative district or districts of  
2 which each county comprises a part at the special election to be held  
3 throughout the State on November 5, 1996, and it shall be the duty of  
4 the Secretary of State and of the several county clerks to arrange for  
5 the election of delegates and the submission of the public question in  
6 accordance with the provisions of this act and of Title 19 of the  
7 Revised Statutes to the extent not inconsistent with this act.

8  
9 15. The county clerk shall prepare and deliver to the printer a  
10 complete copy for the ballots required for the general election on or  
11 before September 23, 1996, and shall cause to be mailed the sample  
12 ballots on or before October 30, 1996.

13  
14 16. The result of the votes cast for and against the adoption of the  
15 public question shall be returned by the election officers, and a canvass  
16 of the election had as is provided by law in the case of the election of  
17 a Governor. The votes cast for delegates shall be counted, and the  
18 result thereof returned by the election officers, and a canvass of the  
19 election had as is provided by law in the case of the election of  
20 members to the General Assembly. On or before the first Monday  
21 following the election, the board of county canvassers in each county  
22 shall complete the canvass of the votes cast in the county on the public  
23 question and for the election of delegates and determine the results of  
24 the election in the county; and the clerk of the county shall deliver the  
25 results to the Secretary of State. Ballots which have been cast,  
26 election records, voting machines and ballot boxes shall be disposed  
27 of and preserved in the manner provided in Title 19 of the Revised  
28 Statutes.

29  
30 17. On December 3, 1996, the Board of State Canvassers shall  
31 complete the canvass of the votes on the public question and for the  
32 election of delegates and determine and declare the results of the  
33 election on the public question. If a majority of those voting on the  
34 question shall vote "for" a constitutional convention, then the  
35 convention shall be held as provided in this act and the State canvass  
36 of votes cast for delegates shall be completed and the board shall  
37 determine and declare the persons elected as delegates. But if a  
38 majority of those voting on the question shall vote "against" a  
39 constitutional convention, then the convention shall not be held and  
40 the canvass of votes cast for delegates and the determination by the  
41 State board of the results thereof shall be abandoned. The adoption  
42 or rejection of the public question so determined shall be declared in  
43 the same manner as the result of an election for Governor, and the  
44 Secretary of State shall forthwith certify the result of the election to  
45 the Legislature.

1       18. The Governor shall open the convention and preside at its first  
2 session and until permanent officers are selected. So long as the  
3 Governor presides, the Governor may cast the deciding vote in the  
4 event of a tie. The convention shall be the judge of the qualifications  
5 of its members and their election. It shall have the power by the vote  
6 of 61 of the delegates to choose a president and secretary and all other  
7 appropriate officers, to prescribe their functions, powers and duties,  
8 and to make rules and regulations for the conduct of its business.  
9 Before entering upon his office, each delegate shall take and subscribe  
10 on oath or affirmation, before any person qualified to administer on  
11 oath, that he will support the Constitution of the United States and  
12 faithfully discharge his duties as delegate.

13

14       19. If any delegate from any legislative district shall die, resign,  
15 remove from the State or county or otherwise become disqualified  
16 from serving, or if a vacancy occurs for any reason whatsoever, the  
17 vacancy shall be filled by an appointment made by the remaining  
18 delegates or delegate from the legislative district; and, in case there be  
19 no delegate therefrom, any and all vacancies then existing shall be  
20 filled by appointment made by the governing body of each county in  
21 the legislative district.

22

23       20. The convention may frame one or more parts of a Constitution  
24 relating to the responsibility of the Legislature to provide for the  
25 maintenance and support of a thorough and efficient system of free  
26 public schools, each to be submitted to the people that they may adopt  
27 or reject any part, and if the convention so determines, it may also  
28 frame one or more parts to be submitted in the alternative in order that  
29 the people may adopt any of the alternatives or reject any or all of  
30 them.

31

32       21. When the convention by a vote of 61 of the delegates shall  
33 have agreed upon its proposals and the manner of their submission, an  
34 original and two true copies thereof shall be prepared and signed by  
35 the president and secretary of the convention and delivered to the  
36 Governor, who shall cause the original copy to be filed in the office of  
37 the Secretary of State. A printed copy of the proposed amendments  
38 to the Constitution shall be delivered to each member of the  
39 Legislature, whether or not it is then in session. The convention shall  
40 also cause 100 copies each thereof to be delivered to the Secretary of  
41 the Senate and to the Clerk of the General Assembly. The convention  
42 shall adjourn sine die, and the delegates shall be discharged from their  
43 duties, on or before April 11, 1997.

44

45       22. The convention shall frame the question or questions to be  
46 placed upon the ballot, submitting to the people for adoption or

1 rejection any proposed amendments to the Constitution or the part or  
2 parts agreed upon; and may frame, if it deems it appropriate, an  
3 interpretative statement to be placed thereupon or may dispense with  
4 a statement, notwithstanding any other requirement of law. The  
5 convention shall prepare an address to the people consisting of a  
6 summary and an explanation of the proposed amendments to the  
7 Constitution or the part or parts agreed upon. The address shall be  
8 distributed together with the sample ballots for the general election,  
9 and shall be in lieu of any other summary statement which may be  
10 required by law. The convention may make directions to officials and  
11 others for the submission to the people to the amendments to the  
12 Constitution or the part or parts agreed upon and for notice and  
13 publication of the same and of the address, and for the distribution of  
14 copies thereof to the persons, places and institutions through the office  
15 of the Secretary of State or other persons and at the time and in the  
16 manner as it shall determine. The convention may direct that its  
17 provisions, or any of them, for notice, publication and distribution  
18 shall be in lieu of any other provisions of law relating to public  
19 questions.

20

21 23. The question or questions shall be submitted to the people at  
22 the general election to be held in the year 1997. The ballots shall be  
23 counted, and the results thereof determined, in accordance with the  
24 provisions of Title 19 of the Revised Statutes for the submission to the  
25 people of public questions to be voted upon by the voters of the entire  
26 State, except as those provisions are inconsistent with this act or the  
27 directions of the convention.

28

29 24. The convention may require the submission of the question or  
30 questions which it may frame, either with the use of voting machines  
31 or with paper ballots, either separate from or as part of the general  
32 election ballot, or with the use of voting machines, where available,  
33 and paper ballots elsewhere, as provided in Title 19; provided that all  
34 persons qualified to vote in the general election shall be entitled to  
35 vote on the questions to be submitted.

36

37 25. If one or more parts of a Constitution are submitted to the  
38 people and a majority of all votes cast for and against the adoption of  
39 any part shall be in favor of its adoption, then each part so approved  
40 shall become a part of the Constitution of the this State, taking effect  
41 according to its terms. The Secretary of State shall certify the results  
42 of the election to the Governor and the Governor shall thereupon issue  
43 a proclamation which shall contain the Constitution of the State as so  
44 revised.

45

46 26. The convention may also make specific recommendations to be

1 considered legislatively by the Governor, Senate and General  
2 Assembly. All recommendations adopted by the convention shall be  
3 placed promptly before the State Legislature for review and  
4 consideration in the form in which they were adopted by the  
5 convention. It is the stated policy and intention of the Legislature that  
6 any recommendations adopted by the convention will be reviewed by  
7 the Legislature and disposed of by vote of the representative Houses  
8 after opportunity for due deliberation and debate no later than July 1,  
9 1997.

10

11 27. The convention shall have power to incur necessary expenses  
12 in order to exercise the powers conferred and to perform the duties  
13 imposed by this act, and the Legislature shall appropriate necessary  
14 sums for printing, advertising and publication, for compensation of the  
15 clerical, technical and professional personnel that the convention shall  
16 require, and for the other expenses of the convention, the same to be  
17 disbursed by the Treasurer of this State upon vouchers or warrants to  
18 be signed by the president and the secretary of the convention.  
19 Delegates to the convention shall be entitled to be reimbursed for their  
20 necessary expenses for each day the convention is in session, but shall  
21 receive no compensation for their services.

22

23 28. All procedural requirements of this act, all provisions and  
24 requirements of Title 19 of the Revised Statutes made applicable  
25 hereunder, and all directions of the convention as to the manner of the  
26 submission to the people of the Constitution or of a part or parts  
27 agreed upon, shall be directory only, and failure to comply or faulty  
28 compliance therewith shall not in any manner prevent the submission  
29 thereof; except that nothing shall authorize the submission of any  
30 constitution or part thereof in violation of section 2 of this act.

31

32 29. In order that the costs to be incurred in the several counties in  
33 connection with the conduct of the election of delegates to the  
34 constitutional convention to be held pursuant to this act may be  
35 provided from State funds, the Secretary of State shall ascertain the  
36 costs to be so incurred by the several counties for the printing of  
37 sample and official ballots, compensation of election officials and all  
38 other expenses incident to the election of delegates to the  
39 constitutional convention, over and above the costs incurred incident  
40 to the general election to be held on the same date for inclusion in a  
41 supplement to the appropriations act for the expenses of the State  
42 Government for the fiscal year commencing July 1, 1996.

43

44 30. The State House Commission shall make necessary advance  
45 arrangements for the holding of the constitutional convention for  
46 services and facilities of any State department, officer or agency as it

1 deems appropriate and as may be available in connection therewith and  
2 as the convention may require.

3  
4 31. There is appropriated from the General Fund the amount of  
5 \$200,000 for the purposes of this act.

6  
7 32. This act shall take effect immediately.

8  
9  
10 STATEMENT

11  
12 This bill provides for a State limited constitutional convention  
13 composed of 120 delegates for the purpose of considering proposals  
14 to revise and amend the provisions of the present State Constitution  
15 relating to the responsibility of the Legislature to provide for the  
16 maintenance and support of a thorough and efficient system of free  
17 public schools. The bill also includes provisions for the question of  
18 the convention to be submitted to the people and for the election of  
19 three delegates from each legislative district at the general election to  
20 be held on November 5, 1996. If the question of the convention is  
21 approved, the convention would convene at Rutgers, the State  
22 University in New Brunswick on January 6, 1997, and conclude its  
23 work on or before April 11, 1997. Any revisions and amendments to  
24 the present Constitution which are agreed upon by the convention  
25 would be submitted to the people at the general election to be held on  
26 November 4, 1997.

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30  
31 Provides for State limited constitutional convention to consider  
32 revision of the Constitution relating to the maintenance and support of  
33 a thorough and efficient system of free public schools; appropriates  
34 \$200,000.