

SENATE CONCURRENT RESOLUTION No. 24

STATE OF NEW JERSEY

INTRODUCED JANUARY 18, 1996

By Senators SCHLUTER, MacINNES, McNamara, Lynch, Lipman,
Adler, Martin, McGreevey, Kenny and Bassano

- 1 **A CONCURRENT RESOLUTION** proposing to amend Article I, paragraph 2
2 and Article II of the Constitution of the State of New Jersey.
3
- 4 **WHEREAS**, The republican form of government affords the surest means by
5 which the people, having established the state for their protection, may
6 subordinate its power to their will; and
- 7 **WHEREAS**, That will achieves its most eloquent expression in the election, at
8 regular intervals, of public officers to have responsibility for enacting that
9 will as law and for implementing that law through proper regulation and
10 enforcement; and
- 11 **WHEREAS**, Our Constitution further provides for popular control over the
12 power of the state through its guarantee of the right of the people, in time
13 of election and at any other time, to speak freely, to assemble peaceably,
14 and to petition the government for redress of their grievances; and
- 15 **WHEREAS**, The preservation of effective popular sovereignty is essential to the
16 just and healthy functioning of our political system, and is threatened when
17 special, narrow interests exercise undue influence, sometimes out of public
18 view, upon the electoral process or upon the determination and execution
19 of public policy; and
- 20 **WHEREAS**, It is a paradox that certain ills which frustrate the declared and
21 evident purposes for which republican government is ordained have no
22 ready remedy in the normal operation of the principal mechanisms of such
23 government; and
- 24 **WHEREAS**, Among these ills are: exposure of the electoral process to financial
25 influences serving narrow interests not in harmony with those of the public
26 at large; inadequate control of and publicity for the activities of those who
27 lobby the legislative and executive branches of government; inadequate
28 constraints upon conflicts of interest among public officers; and deficient
29 provision for fairness and openness in the conduct of the electoral process;
30 now, therefore,
- 31 **BE IT RESOLVED** by the Senate of the State of New Jersey (the General

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 *Assembly concurring):*

2

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

5

6

PROPOSED AMENDMENT

7

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

9

10 2. a. All political power is inherent in the people. Government is instituted
11 for the protection, security, and benefit of the people, and they have the right
12 at all times to alter or reform the same, whenever the public good may require
13 it.

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

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

1 accordance with such procedure as the Legislature shall provide by general
2 law.

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

10 (cf: Art.I, para.2, amended effective January 1, 1994)

11

12 b. Amend Article II as follows:

13

14 ARTICLE II
15 ELECTIONS [AND], SUFFRAGE AND
16 INITIATIVE AND REFERENDUM
17 SECTION I

18

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

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

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

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

34 3. (a) Every citizen of the United States, of the age of 18 years, who shall
35 have been a resident of this State and of the county in which he claims his vote
36 30 days, next before the election, shall be entitled to vote for all officers that
37 now are or hereafter may be elective by the people, and upon all questions
38 which may be submitted to a vote of the people; and

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

40 (c) Any person registered as a voter in any election district of this State
41 who has removed or shall remove to another state or to another county within
42 this State and is not able there to qualify to vote by reason of an insufficient
43 period of residence in such state or county, shall, as a citizen of the United

1 States, have the right to vote for electors for President and Vice President of
2 the United States, only, by Presidential Elector Absentee Ballot, in the county
3 from which he has removed, in such manner as the Legislature shall provide.
4 (cf: Art. II, para. 3, amended effective Dec. 5, 1974)

5 4. In time of war no elector in the military service of the State or in the
6 armed forces of the United States shall be deprived of his vote by reason of
7 absence from his election district. The Legislature may provide for absentee
8 voting by members of the armed forces of the United States in time of peace.
9 The Legislature may provide the manner in which and the time and place at
10 which such absent electors may vote, and for the return and canvass of their
11 votes in the election district in which they respectively reside.
12 (cf: Art. II, para. 4)

13 5. No person in the military, naval or marine service of the United States
14 shall be considered a resident of this State by being stationed in any garrison,
15 barrack, or military or naval place or station within this State.
16 (cf: Art. II, para. 5)

17 6. No idiot or insane person shall enjoy the right of suffrage.
18 (cf: Art. II, para. 6)

19 7. The Legislature may pass laws to deprive persons of the right of
20 suffrage who shall be convicted of such crimes as it may designate. Any
21 person so deprived, when pardoned or otherwise restored by law to the right
22 of suffrage, shall again enjoy that right.
23 (cf: Art. II, para. 7)

24

25

SECTION II

26

27 1. (a) The number of signatures of registered voters required upon an
28 initiative petition proposing a law of enactment under subparagraph c. of
29 paragraph 2 of Article I of this Constitution, or a referendum petition
30 proposing a public question effecting repeal under that subparagraph, in order
31 for that petition to be submitted to the Legislature shall be equal to at least 8%
32 of the number of votes cast for the office of Governor in the State in the
33 gubernatorial election preceding certification of the petition for circulation as
34 shall be provided by law.

35 (b) Before such an initiative petition or referendum petition is submitted to
36 the Legislature, petitioners shall file the petition with the Secretary of State,
37 who shall within 60 days after that filing determine whether the petition
38 includes sufficient numbers of signatures of registered voters as required under
39 subparagraph (a) of this paragraph. The Secretary of State may employ such
40 random sampling techniques, meeting ordinary professional standards of
41 statistical reliability, as the Legislature may provide by law or, in the absence
42 of such provision, as the Secretary of State shall find to be effective and
43 convenient. If, on or before the 60th day following the filing, the Secretary of

1 State determines that sufficient numbers of signatures so required to be
2 included on the petition shall not have been obtained, that petition shall be
3 deemed void and without effect. Otherwise, the petition shall be deemed
4 eligible for submission to the Legislature.

5 (c) An initiative or referendum petition which is not filed with the Secretary
6 of State as required under subparagraph (b) of this paragraph within such
7 period following the certification thereof for circulation as may be established
8 by law but not less than one year shall be void and without effect.

9 2. No law proposed by an initiative petition which was enacted by a vote
10 of the people, nor any law enacted by the Legislature and the Governor in
11 response to such a petition, shall be amended, repealed, superseded, nullified
12 or suspended, and no law which is repealed as a result of a referendum shall
13 be reenacted, by the Legislature for a period of two years except by a vote of
14 three-fourths of all the members of each House, or for a period of three years
15 after the two-year period except by a vote of three-fifths of all the members
16 of each House, after at least 20 calendar days shall have elapsed following the
17 introduction of a bill to amend, repeal, supersede, nullify, suspend or reenact,
18 as the case may be, and a public hearing has been held thereon.

19 3. If, at a general election, a law proposed by an initiative petition is not
20 approved or a law whose continuance is the subject of a public question
21 proposed by a referendum petition is not rejected, neither the proposed law
22 nor the public question concerning the law which was the subject of the
23 referendum petition, nor one to effect the same or substantially the same
24 change shall be submitted to the people before the third general election
25 thereafter.

26 4. (a) Prior to the submission to the voters of a law of enactment
27 proposed by an initiative petition or a law of repeal proposed by a referendum
28 petition, a party may seek a declaratory judgment of the Supreme Court that
29 the proposed law of enactment or repeal (1) would be invalid under the
30 Constitution or laws of the United States, or (2) cannot be enacted or given
31 effect as legislation under this State Constitution, if the pleading requesting
32 such judgment is filed with the Supreme Court not later than the 90th day
33 following the submission of the petition to the Legislature. Any such action
34 shall be heard and decided, and appropriate relief granted, with all due
35 expedition, but in no case later than six months following that submission.

36 (b) No law submitted to the people by initiative petition and approved by
37 the people shall be held unconstitutional or void on account of the insufficient
38 number of signatures on the petition by which the submission of the same was
39 procured; nor shall the repeal of any law, or section or part thereof, resulting
40 from a referendum be held invalid for the same insufficiency.

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

1 of this section.

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

5 (b) Any law proposed by an initiative petition and the repeal of any law
6 whose continuance is the subject of a public question proposed by a
7 referendum petition shall become effective on the date provided by that
8 proposed law or by that public question, or if no such date is so provided,
9 then upon the 30th day following enactment or approval of the law proposed
10 by an initiative petition or following the rejection of a law as a result of a
11 referendum.

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

17 8. (a) If conflicting laws proposed by initiative petitions, or enacted by the
18 Legislature and the Governor or passed by the Legislature in response to
19 initiative petitions and submitted to the voters, are approved at the same
20 election by a majority of the total number of votes cast for and against the
21 same, the one receiving the highest number of affirmative votes shall be the
22 law.

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

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

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

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

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

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

41 11. If legislation is not enacted within one year of the adoption of this
42 constitutional amendment which implements this constitutional amendment,
43 then this constitutional amendment shall be construed as being self-executing.

1 and in that case, shall be administered by the Secretary of State, provided that
2 the regulations adopted by the Secretary of State shall be superseded by
3 subsequent legislation consistent with this constitutional amendment governing
4 the conduct of the initiative and referendum process.

5

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

13

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

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

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

20 If you favor the proposition printed below make a cross (X), plus (+) or
21 check (T) in the square opposite the word 'Yes.' If you are opposed thereto
22 make a cross (X), plus (+) or check (T) in the square opposite the word
23 'No.'

24 In every municipality the following question:

1		ESTABLISHES INITIATIVE AND	
2		REFERENDUM PROCESS IN THE STATE	
3		FOR CERTAIN	
4		CATEGORIES OF LEGISLATION	
5	YES	Shall the amendment to Article I, paragraph 2 and	
6		Article II of the Constitution, agreed to by the	
7		Legislature, establishing the process of initiative and	
8		referendum in the State with respect to laws to	
9		govern the financing of political campaigns, to	
10		regulate the practice of lobbying, to establish codes	
11		of ethics for public officials, or to revise electoral	
12		procedures, be adopted?	
13			
14			INTERPRETIVE STATEMENT
15	NO	Adoption of this amendment would establish an	
16		indirect initiative and referendum process in this	
17		State whereby proposals that new laws be enacted	
18		to govern the financing of political campaigns, to	
19		regulate the practice of lobbying, to establish codes	
20		of ethics for public officials, or to revise electoral	
21		procedures, as well as proposals that existing laws	
22		on any of these subjects be considered for repeal,	
23		would be submitted to the Legislature for action.	
24		If no action is taken upon a proposal, or if such	
25		action as is taken is addressed to a law not	
26		substantially similar to that which has been	
27		proposed, the proposed law would be placed on	
28		the ballot. The number of signatures required to	
29		submit a proposed law to the Legislature would be	
30		at least 8% of the votes cast in the preceding	
31		gubernatorial election.	
32			
33			

SCHEDULE

37 This constitutional amendment shall become a part of the Constitution on
 38 the 30th day next following the general election at which it is approved by the
 39 voters, except that if, at that election, one or more other public questions
 40 proposing constitutional amendments providing for the establishment of the
 41 initiative and referendum power are submitted to the voters, then this
 42 constitutional amendment shall not be deemed to have been approved, and

1 shall be void and without effect, unless the number of legally qualified voters
2 voting to approve this constitutional amendment shall be greater than the
3 number of such voters voting to approve any of those other constitutional
4 amendments.

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6

7

STATEMENT

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9 This concurrent resolution proposes to amend the State Constitution to
10 provide the people of the State with the power of indirect initiative and
11 referendum to enact laws governing campaign finance, lobbying, government
12 ethics, and the electoral process.

13 This constitutional amendment provides the people with the ability to
14 propose to the Legislature a new law on any of these subjects and to place
15 before the Legislature the question of the continuance in force of any existing
16 law on such a subject. The Legislature and the Governor are to respond to
17 such a proposal within a specific time period; otherwise, the people are to
18 have the power to enact the proposed new law, or to reject the existing law,
19 at the polls.

20 To qualify a law of enactment or repeal, proposed by an initiative petition
21 or referendum petition, respectively, for submission to the Legislature, the
22 petition which proposes it must contain a number of signatures equal to at least
23 8% of the number of votes cast for the office of Governor in the State in the
24 gubernatorial election preceding certification of the petition for circulation. A
25 limit on the time allowed for collecting the required number of signatures may
26 be established by law but shall not be less than one year.

27 Before a petition could be submitted to the Legislature, it is to be filed with
28 the Secretary of State, who is to have 60 days to determine whether the
29 petition was signed by sufficient numbers of registered voters. The Secretary
30 of State is authorized to make this determination on the basis of a sample of
31 the signatures to the petition chosen in accordance with appropriate random
32 sampling techniques. If not found within the 60-day period to have been
33 signed by insufficient numbers of registered voters, the petition would be
34 deemed eligible for submission to the Legislature.

35 Once a law of enactment proposed by initiative petition or a law of repeal
36 proposed by referendum petition is submitted to the Legislature, the
37 Legislature and the Governor shall have such period of time as shall be
38 established by law, but not exceeding six months, in which to enact a
39 substantially similar law of enactment or enact the repeal, as appropriate. In
40 the absence of such timely response, the proposed law of enactment or repeal
41 shall be submitted to the people.

42 The constitutional amendment provides that, prior to the submission to the
43 voters of a proposed law or repealer, any party may seek a declaratory

1 judgment from the New Jersey Supreme Court that the law or repealer
2 violates the federal Constitution or law or would be invalid under the State
3 Constitution.

4 If a law proposed by initiative petition and submitted to the people is not
5 approved, or a law whose continuance is the subject of a public question
6 submitted to the people in a referendum is not rejected, then neither that law
7 or public question, nor one to effect the same or substantially the same change,
8 may be submitted to the people for approval or rejection, as appropriate,
9 before the third general election thereafter. If a law proposed by initiative
10 petition is enacted by the people or a law in response to such a petition is
11 enacted by the Legislature and the Governor, or if an existing law which is the
12 subject of a referendum petition is repealed by the people or the Legislature
13 and the Governor, any revision or repeal of the law so enacted, or
14 reenactment of the law so repealed, would require a three-fourths vote in each
15 House of the Legislature during the first two years following that enactment or
16 repeal or a three-fifths vote in each House during the three years following that
17 two-year period.

18 The constitutional amendment provides that no law proposed by an
19 initiative or referendum petition and approved by the people shall be subject
20 to the veto power of the Governor. It also states that if conflicting laws
21 proposed by the initiative process are approved by the people at the same
22 election, the one receiving the highest number of affirmative votes shall be
23 deemed approved.

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

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