

# Public Hearing

before

ASSEMBLY STATE GOVERNMENT COMMITTEE

ASSEMBLY CONCURRENT RESOLUTION No. 94 (1R)

"Amends Constitution to reduce number of signatures  
required to recall any elected public official"

LOCATION: Committee Room 12  
State House Annex  
Trenton, New Jersey

DATE: April 13, 1995  
10:00 a.m.

## MEMBERS OF COMMITTEE PRESENT:

Assemblyman David C. Russo, Chairman  
Assemblyman Anthony Bucco  
Assemblyman Leonard Lance



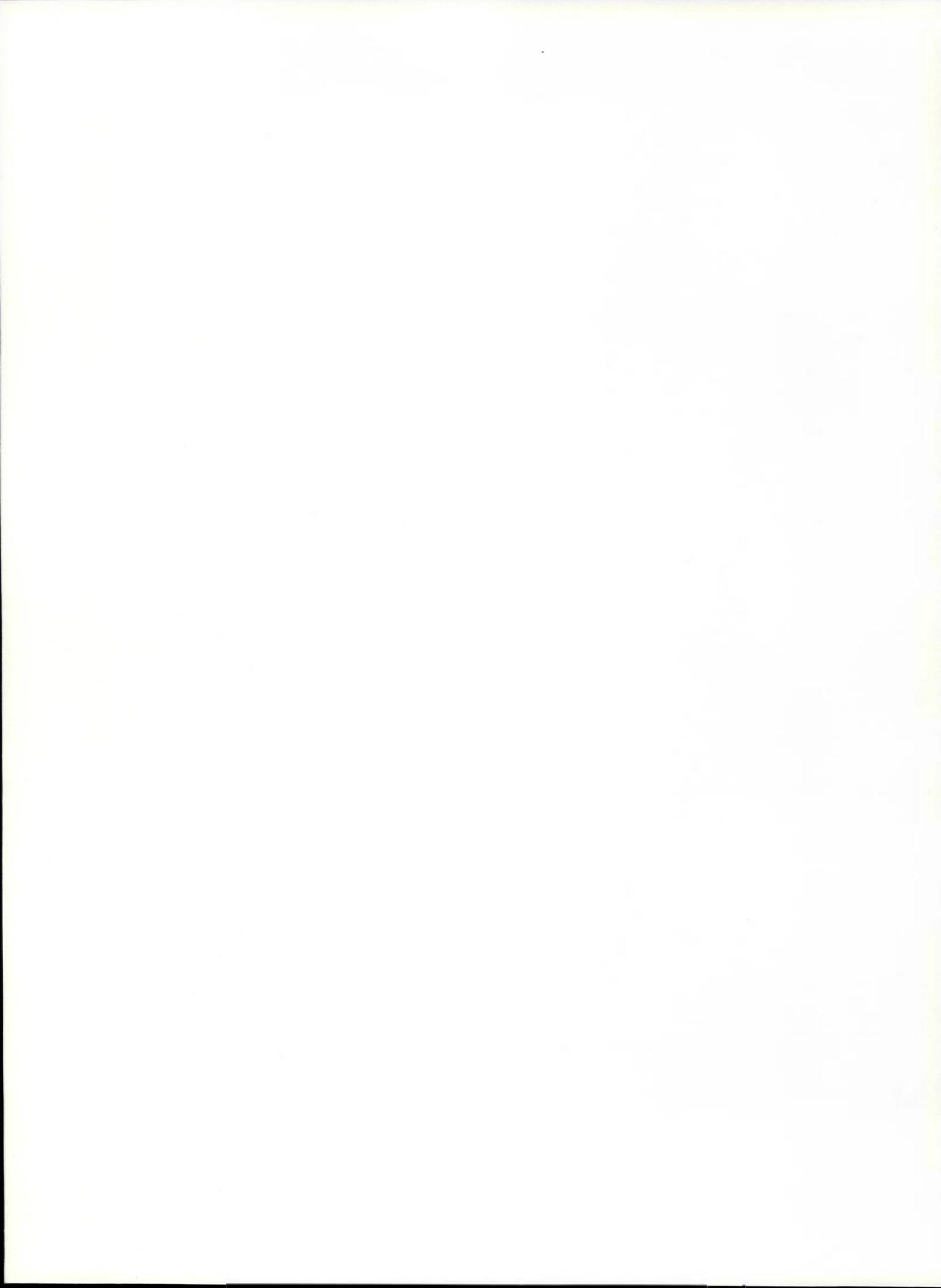
## ALSO PRESENT:

Donald S. Margeson  
Aide, Assembly State Government Committee  
Office of Legislative Services

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New Jersey State Legislature  
ASSEMBLY STATE GOVERNMENT COMMITTEE  
STATE HOUSE ANNEX, CN-068  
TRENTON, NJ 08625-0068  
(609) 292-9106

## NOTICE OF PUBLIC HEARING

The Assembly State Government Committee will hold a public hearing on the following legislation:

ACR-94 (1R)  
Haytaian/Geist

Amends Constitution to reduce number of signatures required to recall any elected public official.

**The hearing will be held on Thursday, April 13, 1995 at 10:00 A.M. in Committee Room 12, State House Annex, Trenton, New Jersey.**

This public hearing has been ordered by the General Assembly under Rule 143 of the Rules of the General Assembly and in compliance with the requirements of Article IX, paragraph 1 of the State Constitution concerning proposed constitutional amendments.

*The public may address comments and questions to Donald S. Margeson, Committee Aide, Assembly State Government Committee, (609) 292-9106. Persons wishing to testify are asked to call Elena E. Roman, Secretary, at (609) 292-9106 in order to sign up. Those persons presenting written testimony are asked to provide 12 copies on the day of the hearing.*

Issued 03/31/95

Assistive listening devices available upon 24 hours prior notice  
to the committee aide listed above

[FIRST REPRINT]  
ASSEMBLY CONCURRENT RESOLUTION No. 94

STATE OF NEW JERSEY

INTRODUCED OCTOBER 20, 1994

By Assemblymen HAYTAIAN and GEIST

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

3  
4 BE IT RESOLVED by the General Assembly of the State of  
5 New Jersey (the Senate concurring):

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

8  
9 PROPOSED AMENDMENT

10  
11 Amend Article I, paragraph 2 to read as follows:

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

16 b. The people reserve unto themselves the power to recall,  
17 after at least one year of service, any elected official in this  
18 State or representing this State in the United States Congress.  
19 The Legislature shall enact laws to provide for such recall  
20 elections. Any such laws shall include a provision that a recall  
21 election shall be held upon petition of <sup>1</sup>registered voters in the  
22 electoral district of the official sought to be recalled equal in  
23 number to<sup>1</sup> at least 25% of the registered voters [in the electoral  
24 district] <sup>1</sup>[voting] in that electoral district who voted<sup>1</sup> in the last  
25 preceding election <sup>1</sup>[for] held to fill for a full term<sup>1</sup> the office  
26 <sup>1</sup>[of the] from which recall of that<sup>1</sup> official <sup>1</sup>is<sup>1</sup> sought <sup>1</sup>[to be  
27 recalled]<sup>1</sup>. If legislation to implement this constitutional  
28 amendment is not enacted within one year of the adoption of the  
29 amendment, the Secretary of State shall, by regulation,  
30 implement the constitutional amendment, except that regulations  
31 adopted by the Secretary of State shall be superseded by any  
32 subsequent legislation consistent with this constitutional  
33 amendment governing recall elections. The sufficiency of any  
34 statement of reasons or grounds procedurally required shall be a  
35 political rather than a judicial question.

36 (cf: Amended November 2, 1993, effective January 1, 1994)

37 2. When this proposed amendment to the Constitution is finally  
38 agreed to, pursuant to Article IX, paragraph 1 of the  
39 Constitution, it shall be submitted to the people at the next  
40 general election occurring more than three months after the final  
41 agreement and shall be published at least once in at least one  
42 newspaper of each county designated by the President of the

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.

Matter enclosed in superscript numerals has been adopted as follows:

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

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

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

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

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

14 b. In every municipality the following question:

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REDUCING REQUIRED RECALL PETITION  
SIGNATURES

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YES. Shall Article I, paragraph 2 of the Constitution be  
24 amended, as proposed by the Legislature, to  
25 provide for a reduction in the number of  
26 signatures required on petitions to recall elected  
27 public officials?

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INTERPRETIVE STATEMENT

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<sup>1</sup>SCHEDULE

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This constitutional amendment shall become part of the  
Constitution on January 1 following the election at which it is  
approved.<sup>1</sup>

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Amends Constitution to reduce number of signatures required to  
recall any elected public official.

ASSEMBLY STATE GOVERNMENT COMMITTEE

STATEMENT TO

ASSEMBLY CONCURRENT RESOLUTION No. 94

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 9, 1995

The Assembly State Government Committee reports favorably and with committee amendments Assembly Concurrent Resolution No. 94.

This concurrent resolution proposes an amendment to the State Constitution to revise the number of signatures required to recall any elected public official in this State or representing this State in the Congress of the United States. If agreed to by the voters, the number of signatures would change from at least 25% of the registered voters in the electoral district of the official sought to be recalled to at least 25% of the registered voters voting in the electoral district of the official sought to be recalled in the last preceding election held to fill for a full term the office from which recall of that official is sought.

COMMITTEE AMENDMENTS

The committee adopted amendments to this legislation to specify more clearly the designation of the body of voters to be used as the basis for determining the number of signatures required on a recall petition. The amendments also establish a schedule providing that the proposed constitutional amendment will take effect on January 1 following approval by the people.

# TABLE OF CONTENTS

	<u>Page</u>
Garabed "Chuck" Haytaian Speaker of the General Assembly District 23	1
John Budzash Chairman New Jersey Taxpayers Task Force	3
Samuel Perelli United Taxpayers of New Jersey	5

\* \* \* \* \*

hw: 1-7

ASSEMBLYMAN LANCE: Good morning, ladies and gentlemen. We're going to get the hearing underway. This is a public hearing for ACR-94, first reprint, sponsored by Speaker Haytaian and Assemblyman Geist, which will amend the Constitution to reduce the number of signatures required to recall any elected public official.

This public hearing has been ordered by the General Assembly under Rule No. 143 and in compliance with the requirements of Article IX, paragraph 1 of the State Constitution concerning proposed constitutional amendments.

I would ask Don to read the Constitution.

MR. MARGESON (Committee Aide): In brief, the constitutional amendment provides that the-- It revises the number of signatures that are required to recall an elected official in this State or representing the State in either House of Congress. It would change from 25 percent of the registered voters in the electoral district of the official sought to be recalled -- it would change that requirement to 25 percent of the registered voters voting in the electoral district of the official sought to be recalled in the last preceding election. So it would change it from a registration base to an actual voting base.

ASSEMBLYMAN LANCE: Thank you, Mr. Margeson.

The Chair recognizes the Speaker of the Assembly, Assemblyman Haytaian.

**S P E A K E R G A R A B E D " C H U C K " H A Y T A I A N:**  
Thank you, Mr. Chairman. I appreciate the ability to lead off this public hearing. This Committee has my statement when the bill was before it. I'm not prepared to give any more written statements than I have, but I think it is important that the public, in the public statement venue, that the sponsor come here and speak about his bill, as I am doing.

The Constitution has it as 25 percent of the registered voters for recall. I personally think it is doable.

There are others who disagree with that, and I can understand their disagreement. But I think it would be better for all of us in the State of New Jersey, when it comes to recall, that it be 25 percent of those who voted in the last election. Therefore, we put this bill in. There are some who, I know, doubt whether this can be done. I don't doubt that it can be done. I truly believe it should be done. I think it is more appropriate to have recall based on 25 percent of those who voted in the previous election that elected those who are being recalled.

So I'm here to back up my statement and make sure that you have heard from me at the public hearing, because I've been criticized in the past for not having public hearings, but for different reasons. Hence, I wanted to make sure that the public knew that we are here and that we do believe in the process, and we have done, because we did not do this for this particular bill, as we have for other bills that I was criticized for not having a public hearing, and I thought it was important that I be here. So I thank you for the opportunity, and I will answer any questions, if you have any.

ASSEMBLYMAN LANCE: Thank you, Speaker Haytaian.

The Chair notes that the Speaker testified at length at the State Government hearing on this matter when the State Government Committee released this measure favorably.

Assemblyman Bucco, do you have any questions?

ASSEMBLYMAN BUCCO: No, I have nothing at this time, Mr. Chairman.

ASSEMBLYMAN LANCE: Thank you, Speaker Haytaian.

ASSEMBLYMAN HAYTAIAN: Thank you very much, Mr. Chairman.

ASSEMBLYMAN LANCE: I have received two papers of those who wish to testify this morning. In order of my receipt, I would first request Mr. John Budzash to come forward.

**J O H N B U D Z A S H:** John Budzash, Chairman of New Jersey Taxpayers Task Force. I would like to thank you for convening this hearing today.

I would like to quote Senator Kyrillos. He said, when the Legislature was voting to repeal or to reduce the sales tax on the Senate floor, he announced that, "We are here today doing this because of the hordes of people that stormed the State House in the summer of '90," which is the direct reason why we're faced now with this amendment to the recall bill. I can assure you the hordes of people who stormed the State House in the summer of '90 would be very much in favor of reducing the signature requirement to enable them to recall any elected official.

The problem that we have, as Speaker Haytaian mentioned, is, some of the people will complain about the number of signatures required to actually recall public officials. While that is very, very true-- We participated in probably the biggest petition gathering effort in the State of New Jersey for quite some time. We raised over a million signatures on petitions. Now, I myself, being well-acquainted with what happens when you raise petitions and the other person who you are opposing doesn't quite like what you're trying to do and contests those signatures-- It means you can't just get by with the amount of signatures that you need. You have to raise many, many more.

You will also find, when you're talking petitions of extreme size, of a recall petition as it was originally proposed, a million signatures would be needed for the governor. Many people, in their exuberance, would sign three, four, five, ten, fifteen, or twenty times. If that is found through the opponent or the person who is trying to be recalled, I'm quite sure they are going to protest the signatures. They're going to find instances like this, and they're going to throw the whole system into turmoil for quite some time.

As it's written and as it stands right now, the problem that we have is, there really is only two organizations in the State of New Jersey that can possibly use this recall method. That would be the NJEA, because they are organized in every community, and possibly and probably the NRA, not because of the size of their membership, but because of the amount of money that they have behind them to enable them to go forth and to mount a monumental effort to get this many signatures.

We have a problem, again, as I'm sure you're aware of, with the time frame that is required to get the signatures, which makes it even more difficult, and with the odd requirements for paper sizes and so forth that are in the legislation. We would also like to see you address that.

But for right now, if we can't get anything better, we are supporting this bill. But we would hope that you would consider decreasing the number of signatures down to 15 percent, increase the time frame required to get those signatures, and get rid of the odd requirements such as the paper sizes and so forth.

Other than that, we're in support of any effort to reduce the number of signatures required to make this bill more usable to the average people in the State of New Jersey. And we can assure you that it is not something that will be used recklessly just to go out and mount a repeal -- or a recall effort, that is. It is something that people are going to use only when they're driven to a point of outrage like they were in 1990.

Thank you.

ASSEMBLYMAN LANCE: Thank you, Mr. Budzash. Mr. Kingston has informed me that the paper size has been taken out, so one of your concerns, apparently, has been alleviated already.

MR. BUDZASH: Very good. Thank you.

ASSEMBLYMAN LANCE: Assemblyman Bucco, do you have any questions of the witness?

ASSEMBLYMAN BUCCO: No, Mr. Chairman, nothing at this time.

ASSEMBLYMAN LANCE: Thank you very much.

The Chair recognizes Mr. Perelli, of United Taxpayers.

S A M U E L P E R E L L I: I thank the Committee for the opportunity to offer our comments. Just by way of some historical background: Can you all see that headline? Can you all see the date of that headline? (witness displays newspaper) That headline is dated September 19, 1976, just to give you an idea of some perspective of State House rallies in opposition to various things.

ASSEMBLYMAN LANCE: Assemblyman Bucco and I were not born then -- not yet. (laughter)

MR. PERELLI: Just a little historical perspective.

Many years ago, our organization got into some turmoil, and that turmoil was as the result of a mouthful of words called "I," "R," and "R" -- initiative, referendum, and recall. The turmoil was caused by myself saying that it is too big, it's too big a mouthful to chew. So we decided to separate initiative and referendum as one issue, and recall as another. And thankfully, today, we have a recall bill that is on the Governor's desk with a number of suggested conditional vetoes, and we certainly hope that the Governor will accede to those comments that we, along with a number of other organizations, have suggested doing.

ACR-94 is completely and apart, as many people, unfortunately, don't realize -- it has absolutely nothing to do with that particular piece of legislation, only that it corrects one of the -- what we call the major inequities. Most of the other states -- according to all the comment that has been made by various people who came before the Committee -- most of the

other states do reflect the petition requirements in the 25 percent of those who voted in the last election.

Now, when you get right down to it, only approximately 50 percent of the electorate, unfortunately, is participating in our system now. We're embarrassed to say that through all of our efforts, we haven't been able to get more than that. And hopefully -- hopefully -- these recall methods, lowering the signatures, will bring out more people, and if we ever did get initiative and referendum, it will bring out more people, and as a result -- as a result -- will bring in a higher number of voters voting in "that last election." So, ultimately, this thing can self-serve the people who want to raise signatures in opposition to a candidacy.

So, ultimately, I believe that it is a good idea. I believe that it is an idea that is correcting what we termed a lemon. The Committee Chairman -- I believe, David Russo -- commented, why we didn't oppose that 25 percent signature at the time in 1993. Well, quite frankly, that thing went through the Legislature like a reaper in a wheat field. It got through. It was, in our view: "We can't give 'em initiative and referendum; let's give 'em recall. But let's not give 'em a recall bill that's usable." It was a lemon, and we decided to not embarrass ourselves and try to say, after all these years, vote "no" on the recall bill. It was a lemon, and we made lemonade.

Here we are today with some lemonade. I urge you to pass this bill. But I would like to put on the record that this bill will probably go up to the Senate and stop. I want it on the record in this Committee that the New Jersey Senate will oppose this lemonade bill. Shame on them, and we have a way of dealing with that. That is not a threat; that is a promise.

I thank you for getting this bill -- fast-track it. We hope that on-- I believe it's May 1 -- is that your first Assembly meeting? We hope that on May 1, we can all applaud you

and say, "You did it." And you can take that to your election this coming November.

Thank you for your time.

**ASSEMBLYMAN DAVID C. RUSSO (Chairman):** Thanks, Sam.

Any other witnesses? (no response)

Okay, then we'll move to close this public hearing.

**(HEARING CONCLUDED)**

