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1992a

Public Hearing

before

ASSEMBLY POLICY AND RULES COMMITTEE

ASSEMBLY CONCURRENT RESOLUTION No.70(1R)

(Amends the Constitution to provide for
the election of the State Auditor.)

LOCATION: Room 319
State House
Trenton, New Jersey

DATE: June 1, 1992
2:00 p.m.

MEMBERS OF COMMITTEE PRESENT:

Assemblyman Robert D. Franks, Chairman

ALSO PRESENT:

David L. Sallach
Office of Legislative Services
Aide, Assembly Policy and Rules Committee



Hearing Recorded and Transcribed by
The Office of Legislative Services, Public Information Office,
Hearing Unit, 162 W. State St., CN 068, Trenton, New Jersey 08625-0068



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New Jersey State Legislature

ASSEMBLY POLICY AND RULES COMMITTEE
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PUBLIC HEARING NOTICE

COMMITTEE NOTICE

TO: MEMBERS OF THE ASSEMBLY POLICY AND RULES
COMMITTEE

FROM: ASSEMBLYMAN ROBERT D. FRANKS, CHAIRMAN

SUBJECT: **PUBLIC HEARING AND COMMITTEE MEETING**
June 1, 1992

The public may address comments and questions to David L. Sallach, Committee Aide, or make bill status and scheduling inquiries to Norma Morales, secretary, at (609) 984-0231.

The Assembly Policy and Rules Committee will hold a public hearing on **Monday, June 1, 1992 at 2:00 p.m. in Room 319, State House, Trenton**, to hear testimony on the following bill:

ACR-70 (1R)	Amends the Constitution to provide for
Hartmann/Geist	the election of the State Auditor.

Immediately following the completion of the public hearing, the committee will continue its review of the Casino Revenue Fund and the major programs currently funded with casino revenues.

Testimony relating to the Casino Revenue Fund and casino funded programs shall be limited to invited speakers.

Issued 5/20/92

[FIRST REPRINT]
ASSEMBLY CONCURRENT RESOLUTION No. 70

STATE OF NEW JERSEY

INTRODUCED APRIL 30, 1992

By Assemblymen HARTMANN, GEIST,
Warsh and Assemblywoman Derman

1 A **CONCURRENT RESOLUTION** proposing to amend Articles II,
2 IV and VII of the Constitution of the State of New Jersey to
3 provide for the election of the State Auditor.

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

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

9
10 PROPOSED AMENDMENT

11
12 a. Amend Article II, paragraph 1, to read as follows:

13 1. General elections shall be held annually on the first Tuesday
14 after the first Monday in November; but the time of holding such
15 elections may be altered by law. The Governor, State Auditor
16 and members of the Legislature shall be chosen at general
17 elections. Local elective officers shall be chosen at general
18 elections or at such other times as shall be provided by law.

19 (cf: Article II, paragraph 1)

20 b. Amend Article IV, Section V, paragraph 5 to read as follows:

21 5. Neither the Legislature nor either House thereof shall elect
22 or appoint any executive, administrative or judicial officer
23 [except the State Auditor].

24 (cf: N. J. Const. Art. IV, Sec. V, par. 5)

25 c. Amend Article VII, Section I, paragraph 6 to read as follows:

26 6. [The State Auditor shall be appointed by the Senate and
27 General Assembly in joint meeting for a term of five years and
28 until his successor shall be appointed and qualify. It shall be his
29 duty to conduct post audits of all transactions and accounts kept
30 by or for all departments, offices and agencies of the State
31 Government, to report to the Legislature or to any committee
32 thereof as shall be required by law, and to perform such other
33 similar or related duties as shall, from time to time, be required
34 of him by law.]

35 (a) The State Auditor shall be elected by the legally qualified
36 voters of this State. The person receiving the greatest number of
37 votes shall be the State Auditor; but if two or more shall be equal
38 and greatest in votes, one of them shall be elected State Auditor
39 by the vote of a majority of all the members of both Houses in
40 joint meeting at the regular legislative session next following the
41 election for State Auditor by the people. Contested elections for
42 the office of State Auditor shall be determined in such manner as
43 may be provided by law.

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 Assembly APR committee amendments adopted May 14, 1992.

1 (b) The State Auditor shall not be less than 30 years of age,
2 shall have been a citizen of the United States for at least 20
3 years,¹ and shall have been a ¹[citizen] resident¹ of this State for
4 ¹[five] seven¹ years ¹immediately preceding his election, unless
5 he shall have been absent during that time on the public business
6 of the United States or of this State¹.

7 (c) The term of office of State Auditor shall be four years,
8 beginning at noon on the third Tuesday in January next following
9 his election, and ending at noon on the third Tuesday in January
10 four years thereafter. Any vacancy in the office of the State
11 Auditor shall be filled for the unexpired term in such manner as
12 shall be provided by law.

13 (d) No person who has been elected State Auditor for two
14 successive terms, including an unexpired term, shall again be
15 eligible for that office until the third Tuesday in January of the
16 fourth year following the expiration of the second successive
17 term.

18 (e) The State Auditor shall hold no other office or position of
19 profit under this State or the United States.

20 (f) It shall be the duty of the State Auditor to conduct audits
21 ¹[of all transactions and accounts kept by or for] , reviews and
22 examinations of (1)¹ all departments, offices and agencies of the
23 State ¹[Government, to audit the operation and performance of
24 any program thereof and to report to the Governor and the
25 Legislature or to any committee of the Legislature as shall be
26 required by law] ; (2) any authority, instrumentality or political
27 subdivision with respect to its financial relationship to the State;
28 and (3) any program, activity and function thereof to ensure
29 economy, efficiency, accountability and responsibility in State
30 government¹. The State Auditor shall have such additional
31 powers and duties in regard to the fiscal affairs of the State as
32 shall be provided by law.

33 ¹g. No diminution in the functions, powers and duties of the
34 State Auditor enacted, adopted or issued after the election of any
35 person to that office, whether by law or by executive order or
36 proclamation, shall take effect until another person has been
37 elected to succeed that person and has qualified into office.¹

38 (cf: N.J. Const. Art. VII, Sec. I, par. 6)

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

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

51 There shall be printed on each official ballot to be used at such
52 general election, the following:

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

1 If you favor the proposition printed below make a cross (x), plus
 2 (+) or check (✓) in the square opposite the word "Yes." If you are
 3 opposed thereto make a cross (x), plus (+) or check (✓) in the
 4 square opposite the word "No."

5 b. In every municipality the following question:
 6

	YES.	<p style="text-align: center;">ELECTION OF STATE AUDITOR</p> <p>Shall the proposed amendment of Articles II, IV and VII of the Constitution of the State of New Jersey, agreed to by the Legislature, providing for the popular election of the State Auditor and prescribing the term of office, election, powers and duties of such office, be adopted?</p>
	NO.	<p style="text-align: center;">INTERPRETIVE STATEMENT</p> <p>This Constitutional amendment provides for the popular election of the State Auditor, who would serve for a four-year term and would be responsible for conducting audits ¹[of all transactions and accounts kept by or for] , <u>reviews and examinations of¹ all departments, offices and agencies of the State Government, ¹any authority, instrumentality or political subdivision with respect to its financial relationship to the State¹ and ¹[for auditing the operation and performance of State programs] the programs, activities and functions thereof to ensure economy, efficiency, accountability and responsibility in State government¹.</u> The State Auditor would have such other duties in regard to the fiscal affairs of the State as shall be provided by law. At present, the State Auditor is appointed by the Senate and General Assembly.</p>

SCHEDULE

1. An appointed State Auditor shall continue in office until a State Auditor is elected and takes office as provided by this constitutional amendment.

2. The first election of any State Auditor shall be for a full term of four years and shall be held at the general election occurring two years after the general election at which a Governor is elected next following the date on which these amendments become a part of the Constitution.

Amends the Constitution to provide for the election of the State Auditor.

ASSEMBLY POLICY AND RULES COMMITTEE

STATEMENT TO

ASSEMBLY CONCURRENT RESOLUTION No. 70

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: MAY 14, 1992

The Assembly Policy and Rules Committee favorably reports Assembly Concurrent Resolution No. 70 with committee amendments.

Assembly Concurrent Resolution No. 70 proposes amendments to Articles II, IV, and VII of the New Jersey Constitution to provide for the election of the State Auditor. Currently, the State Auditor is appointed by the Senate and General Assembly at a joint meeting of the Legislature for a term of five years.

The specifics relating to the election, term, qualifications, and duties of the State Auditor are outlined in the resolution. Under the resolution:

- The State Auditor is to be elected to a four-year term at the general election occurring two years after the general election at which the Governor is elected.
- A State Auditor may not serve more than two consecutive terms.
- The State Auditor may not hold any other public office or position of profit.
- A vacancy in the office is to be filled for the unexpired term in a manner provided by law.
- If, in any election, there is a tie in the popular vote for the office of State Auditor, the members of the Senate and General Assembly are to determine the winner by majority vote.

The committee, at the sponsor's request, amended the resolution to (1) provide that the age and residency qualifications for State Auditor are identical to those required of a candidate for the office of Governor; (2) clarify that the duties of the State Auditor include financial, operational and performance audits, reviews and examinations of departments, offices and agencies of State government; authorities, instrumentalities and political subdivisions (with respect to their financial relationships to the State); and the programs, activities and functions of those entities; and (3) specify that neither the Governor nor the Legislature may diminish the functions, powers and duties of the State Auditor during an incumbency.

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* * * * *

ASSEMBLYMAN ROBERT D. FRANKS (Chairman): Ladies and gentlemen, let me express my gratitude for all of you taking the time and effort to show up this afternoon. This meeting of the Assembly Policy and Rules Committee is going to be divided into two sections. The first section, which should be quite brief, is the constitutionally required public hearing in order that the fulfillment of the constitutional mandate that we hold a public hearing prior to the Assembly voting on a proposed constitutional amendment.

This Committee several weeks ago took action in passing a proposed constitutional amendment to create the position of State Auditor, and today we're going to go through a very brief public hearing on that bill in order to fulfill the constitutional requirement that that measure had a public hearing before it's voted on in the Assembly.

I have a brief statement I'm going to read in conjunction with the Auditor bill, and I see the prime sponsor of the measure is with us already.

Today we'll be hearing testimony on a proposed constitutional amendment that would enable the voters of New Jersey to elect a second statewide officeholder, the State Auditor. Perhaps there is no other issue of greater interest to the voters of our State than insuring the tax dollars they send to Trenton are spent wisely and effectively. A popularly elected State Auditor would help answer this overriding concern by giving our citizens greater control over their tax dollars. If this constitutional amendment is adopted by the voters, New Jersey taxpayers would have their own fiscal watchdog; an officeholder who answers to no one but them.

This new office would stand alone, free from undue influence by the legislative or executive branches of State government. An elected State Auditor would have the independence to scrutinize all aspects of State spending from aid to local governments, to the costs of running a State

agency, checking to see that taxpayers are getting the best possible service for their tax dollars. As the experience in 32 other states has shown, an elected Auditor can be a taxpayer's best friend in uncovering fraud, waste, or just plain frivolous spending.

When the Assembly Policy and Rules Committee, this spring, held a series of public hearings on the need for additional statewide elected offices, I outlined a number of factors that should be considered in assessing any proposed new office. As I said then, our aim should not be to create new opportunities for politicians, but instead to open new avenues for people to direct the course of their government.

A popularly elected State Auditor passed our test. It met all of our objectives. We concluded that such an office would go a long way toward restoring public confidence in government and encouraging greater participation in the electoral process by providing the people with their own fiscal guardian. It would force the Governor's Office and the Legislature to be more careful about how it spends the public's money.

Finally, by putting this measure before the voters, the Legislature would demonstrate that we are as concerned with eliminating waste and inefficiency as we are with spending taxpayers hard earned dollars. In short, I believe the election of a statewide Auditor would serve the best interests of the people of New Jersey.

Next, I would like to call upon for testimony, the prime sponsor of this measure, Assemblyman John Hartmann.

A S S E M B L Y M A N J O H N H A R T M A N N: Thank you, Mr. Chairman.

Mr. Chairman, I wish to commend you again for your leadership in moving my legislation, ACR No.70, which calls for the direct election of a State Auditor. You have truly been at the forefront of efforts to move political power away from

professional politicians and bureaucrats and back into the hands of citizens.

Mr. Chairman, the message sent by the voters last November could not have been any louder or clearer. The people have demanded a greater role in managing the affairs of State government, and I am glad this has been a top priority of yours as well as the leadership of the 205th Legislature.

Many people may not realize it, but New Jersey is practically the only State in the nation that has only one statewide elected official, the Governor. Virtually every other state has at least one other statewide elected official, whether it be a Lieutenant Governor, Attorney General, Secretary of State, or even a Railroad Commissioner like they have in Texas. In New Jersey, we have a dominating and domineering Office of Governor, and the people have made it plain that they will no longer tolerate such power concentrated in the hands of just one man or woman, regardless of their political party.

Mr. Chairman, ACR No.70 will allow the people of New Jersey to directly elect the State Auditor, an office which is constitutionally mandated. It would provide the people with an independent watchdog on the taxing and spending coming out of Trenton. Currently, 32 other states elect their auditor directly to serve as the public's watchdog on state government. By upgrading the office of State Auditor in this manner, he or she would have the legal clout to conduct comprehensive performance audits of State programs which could save taxpayers untold millions of dollars. It is, after all, their money and they should be allowed to choose the person whose job it would be to ensure that it is spent properly.

Mr. Chairman, last November we were given a mandate by the people to reform the way our State government operates. I believe by allowing the people to choose their own State Auditor, it would help to restore confidence in our system, which is essential to the future of New Jersey.

I'd like to read a letter into the record from Mr. Michael Horn.

ASSEMBLYMAN FRANKS: Please do.

ASSEMBLYMAN HARTMANN: Thank you. This is from Mr. Michael Horn:

"Thank you for informing me of the Committee public hearing on the proposed constitutional amendment. Would you kindly make this letter a part of the record of the hearing.

"Having served in both the legislative branch -- Assembly, 1972 to 1974 -- and in the executive branch -- Commissioner of Banking, 1982 to 1984 -- and New Jersey State Treasurer from 1984 to 1986, I'm convinced that a statewide State Auditor, elected independently of the Governor in an official election, and therefore responsible only to the electorate, can function effectively to restrict inefficiency and waste in government.

"Obviously, the powers and jurisdiction of a State Auditor as set forth in a proposed constitutional amendment are important.

"Thank you for the opportunity to comment. I applaud the Legislature for undertaking this initiative.

"Respectfully yours, Michael M. Horn."

ASSEMBLYMAN FRANKS: Thank you, Mr. Hartmann.

Mr. Hartmann, let me congratulate you for taking the leadership on this important issue. I think the taxpayers of New Jersey would be well served by moving forward on this proposed constitutional amendment in creating the position of statewide Auditor.

ASSEMBLYMAN HARTMANN: Thank you, Mr. Chairman.

ASSEMBLYMAN FRANKS: Is there anyone else whose here to testify on the proposed constitutional amendment to create the statewide office of Auditor?

B I L L F I O R E: (speaking from audience) Not to testify, but I'd just like to ask a few questions?

ASSEMBLYMAN FRANKS: I guess it's in order. This is a public hearing, not a Committee meeting. This is the public hearing section. If you'd like to state any opinions, that would be fine. Could you sit at this microphone?

MR. FIORE: My name is Bill Fiore--

ASSEMBLYMAN FRANKS: Could you spell your last name for us?

MR. FIORE: F-I-O-R-E, 611 Laurel Street. That's in Bayville.

I haven't heard the salary that this fellow will be getting. Anything on the salary?

ASSEMBLYMAN FRANKS: That would be created by enabling legislation-- Assuming that this constitutional amendment is adopted by the voters in the next general election, then, in fact, the Legislature would enact enabling legislation which would establish the salary and any qualifications parameters around it in which the office would function.

MR. FIORE: And they will have the term of office in there, too?

ASSEMBLYMAN FRANKS: The term of office is in this bill, and that's four years.

MR. FIORE: Okay, thanks a lot. That's all I wanted.

ASSEMBLYMAN FRANKS: Surely.

Any other testimony on the issue of statewide Auditor? (no response) Seeing none, I will declare this public hearing closed.

Thank you.

(HEARING CONCLUDED)

APPENDIX



NEW JERSEY GENERAL ASSEMBLY

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COMMITTEES
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GOVERNMENT
MEMBER, HOUSING
COMMITTEE

Statement of Assemblyman John Hartmann (15th -Mercer) Assembly Policy and Rules Committee - June 1, 1992 ACR-70 - Election of the State Auditor

Mr. Chairman, I wish to commend you again for your leadership in moving my legislation, ACR-70, which calls for the direct election of a State Auditor. You have truly been at the forefront of efforts to move political power away from professional politicians and beaurocrats and back into the hands of the citizens.

Mr. Chairman, the message sent by the voters last November couldn't have been any louder or any clearer. The people have demanded a greater role in managing the affairs of state government and I am glad that this has been a top priority of yours, as well as the leadership of the 205th Legislature.

Many people may not realize it, but New Jersey is practically the only state in the nation which has only one statewide elected official -- the Governor. Virtually every other state has at least one other statewide elected office -- Lieutenant Governor, Attorney General, Secretary of State or even a Railroad Commissioner, like they do in Texas.

In New Jersey, we have a dominating and domineering office of Governor -- and the people have made it plain that they will no longer tolerate such power concentrated in the hands of just one man or woman -- regardless of their political party.

Mr. Chairman, ACR-70 will allow the people of New Jersey to directly elect the State Auditor, an office which is constitutionally mandated. It would provide the people with an independent watchdog on the taxing and spending coming out of Trenton

Currently, 32 other states elect their auditor directly to serve as the public's watchdog on state government. By upgrading the office of State Auditor in this manner, he or she would have the legal clout to conduct comprehensive performance audits of state programs which could save taxpayers untold millions of dollars.

It is, after all, their money and they should be allowed to choose the person whose job it would be to insure that it is spent properly.

Mr. Chairman, last November we were given a mandate by the people to reform the way our state government operates. I believe that allowing the people to choose their own State Auditor would help to restore confidence in our system -- which is essential to the future of New Jersey.

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* NEW YORK BAR ONLY
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 * DELAWARE BAR ONLY

May 28, 1992

Honorable John Hartmann
 Assemblyman, 15th District
 Mercer County
 2564 Route 1, (Business) Suite B
 Lawrenceville, NJ 08648

Dear Assemblyman Hartman:

Thank you for informing me of a committee public hearing on the proposed constitutional amendment. Would you kindly make this letter a part of the record of the hearing.

Having served in both the legislative branch (Assembly, 1972-1974) and in the executive branch (Commissioner of Banking 1982-1984 and New Jersey State Treasurer 1984-1986), I am convinced that statewide State Auditor, elected independently of the Governor in an official election and, therefore, responsible only to the electorate, can function effectively to restrict inefficiency and waste in government.

Obviously, the powers and jurisdiction of a State Auditor as set forth in a proposed constitutional amendment are important.

Thank you for the opportunity to comment. I applaud the legislature for undertaking this initiative.

Respectfully yours,

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