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Public Hearing

before

ASSEMBLY STATE GOVERNMENT COMMITTEE

ASSEMBLY CONCURRENT RESOLUTION No. 6 (1R)

(Amends the Constitution to allow for recall elections
as the Legislature may provide. (ACR-118 of 1990))

LOCATION: Committee Room 10
Legislative Office Building
Trenton, New Jersey

DATE: July 20, 1992
10:00 a.m.

MEMBERS OF COMMITTEE PRESENT:

Assemblyman Robert J. Martin, Chairman
Assemblyman John Hartman, Vice-Chairman
Assemblywoman Virginia Haines
Assemblyman Louis A. Romano

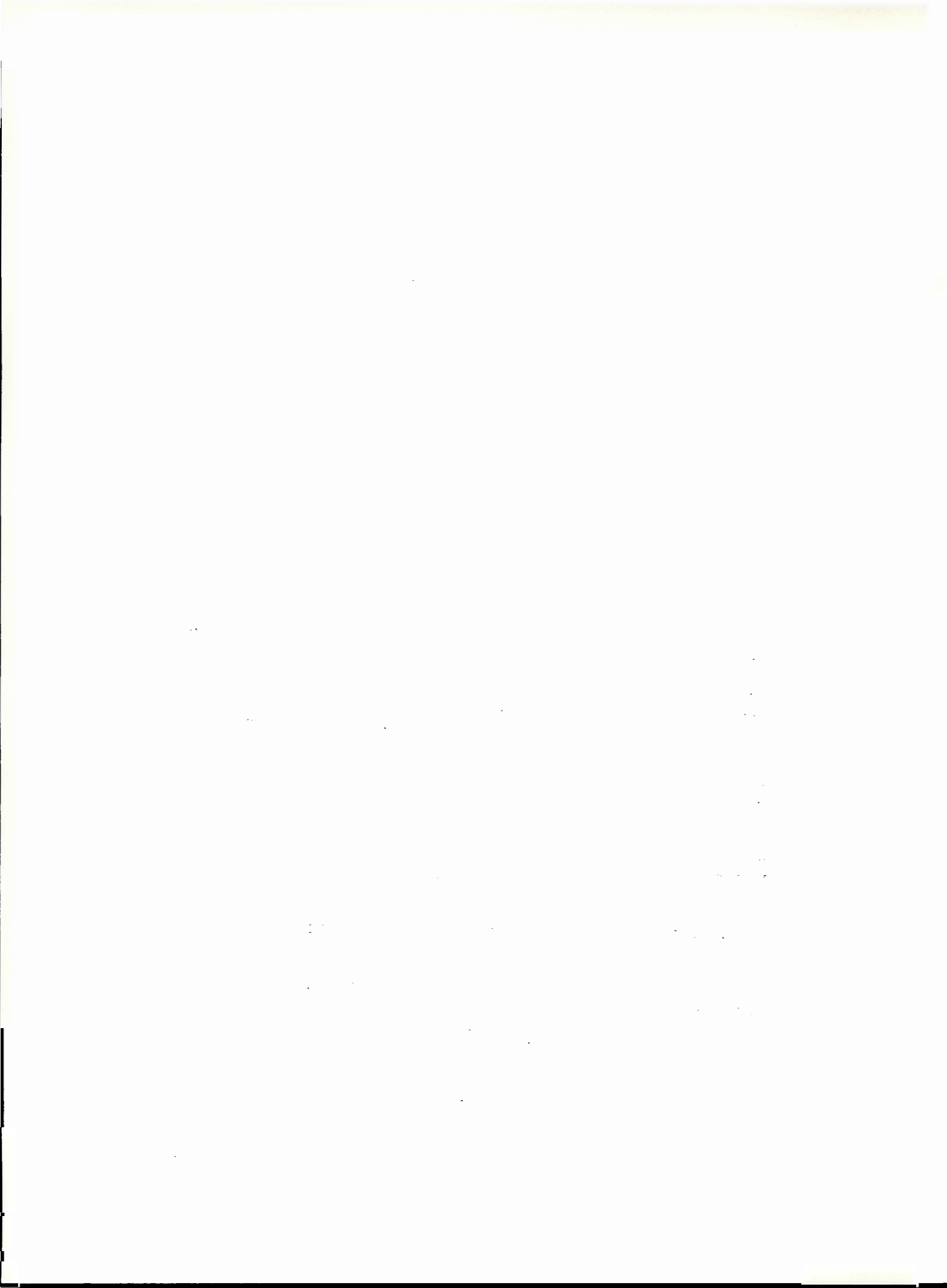


ALSO PRESENT:

Peter J. Kelly
Aide, Assembly State Government Committee
Office of Legislative Services

New Jersey State Library

Hearing Recorded and Transcribed by
The Office of Legislative Services, Public Information Office,
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New Jersey State Legislature
ASSEMBLY STATE GOVERNMENT COMMITTEE
LEGISLATIVE OFFICE BUILDING, CN-068
TRENTON, NEW JERSEY 08625-0068
(609) 292-9106

REVISED

COMMITTEE NOTICE

TO: MEMBERS OF THE ASSEMBLY STATE GOVERNMENT
COMMITTEE

FROM: ASSEMBLYMAN ROBERT J. MARTIN, CHAIRMAN

SUBJECT: COMMITTEE MEETING - July 20, 1992

*The public may address comments and questions to Peter J. Kelly,
Committee Aide, or make bill status and scheduling inquiries to
Deborah Del Vecchio, Secretary, at (609) 292-9106.*

The Assembly State Government Committee will meet on Monday, July 20, 1992 at 10:00 A.M. in Committee Room 10 of the Legislative Office Building, Trenton, New Jersey to consider the following bills:

A-756 Roma	Requires that state-operated toll-free telephone hotlines be equipped with telecommunication devices for hearing impaired persons.
A-1134 Heck/Catania	Modifies membership of Executive Commission on Ethical Standards. (A-4979 of 1991)
A-1180 Martin	Establishes Vacancy Review Board; appropriates \$70,000. (A-2711 of 1991)
A-1195 Kamin/Singer	Increases rates to be paid to newspapers publishing official advertising. (S-591 of 1992)
A-1430 V.Haines/Kamin	Directs State Auditor to conduct operation and performance audits of State programs and to review certain leases.

(OVER)

Issued 7/15/92
Revised 7/17/92 * (A-1628 added and a Public Hearing on ACR-6 added)

New Jersey State Library

Assembly State Government Committee

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July 20, 1992

A-1460
Anderson/Derman

Requires filing with ELEC of certain unsolicited mailings made by the Governor's Office or a State agency; requires letters with Governor's signature be sent from Governor's Office and paid for from Governor's account.

*A-1628
Rooney

Excludes certain charitable contributions and certain communications on behalf of charitable organizations from requirements of Legislative Activities Disclosure Act.

S-134
Cowan

Authorizes Department of Corrections to sell inmate manufactured goods to other states and purchase such goods from other states. (S-666 of 1990)

In addition, the committee will hold a public hearing on the following:

*ACR-6 (1R)
Haytaian/Martin

Amends the Constitution to allow for recall elections as the Legislature may provide. (ACR-118 of 1990)

Issued 7/15/92
Revised 7/17/92 * (A-1628 added and a Public Hearing on ACR-6 added)

ASSEMBLY CONCURRENT RESOLUTION No. 6

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1992 SESSION

By Assemblymen HAYTAIAN, MARTIN, Bagger and
Assemblywoman Crecco

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. ^{1a.1} 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. ¹[in
16 order to guarantee the people this right, the Legislature shall
17 enact laws to provide for the recall election of elected State
18 officials upon petition of qualified voters equal in number to 25%
19 of the registered voters voting in the last preceding election for
20 the office of Governor in the electoral district of the official
21 sought to be recalled.]

22 b. The people reserve unto themselves the power to recall,
23 after at least one year of service, any elected official in this
24 State or representing this State in the United States Congress.
25 The Legislature shall enact laws to provide for such recall
26 elections. Any such laws shall include a provision that a recall
27 election shall be held upon petition of at least 25% of the
28 registered voters in the electoral district of the official sought to
29 be recalled. If legislation to implement this constitutional
30 amendment is not enacted within one year of the adoption of the
31 amendment, the Secretary of State shall, by regulation,
32 implement the constitutional amendment, except that regulations
33 adopted by the Secretary of State shall be superseded by any
34 subsequent legislation consistent with this constitutional
35 amendment governing recall elections. The sufficiency of any
36 statement of reasons or grounds procedurally required shall be a
37 political rather than a judicial question.¹

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

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 ASG committee amendments adopted June 15, 1992.

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YES.	<p>POWER OF ¹[VOTERS] ELECTORS¹ TO REMOVE ELECTED ¹[STATE]¹ OFFICIALS</p> <p>Shall Article I, paragraph 2 of the Constitution be amended, as proposed by the Legislature, to provide for the recall election of elected ¹[State]¹ officials?</p>
NO.	<p>INTERPRETIVE STATEMENT</p> <p>This amendment to the Constitution permits the voters to remove elected ¹[State]¹ officials ¹, after at least one year of service,¹ through the process of a recall election ¹[by which, through], Upon¹ petition¹[, qualified] of registered¹ voters ¹[may submit to popular vote], the question of¹ whether to remove or retain an elected ¹[State]¹ official ¹may be submitted to popular vote¹. This applies to ¹[the Governor and members of the Legislature] <u>any elected official in this State and to the United States Senators and Congressmen elected from New Jersey¹. The Legislature is required to enact those laws necessary to implement the operation of this constitutional amendment. ¹If legislation to implement this constitutional amendment is not enacted within one year of the adoption of the amendment, the Secretary of State shall, by regulation, implement the constitutional amendment, except that regulations adopted by the Secretary of State shall be superseded by any subsequent legislation consistent with this constitutional amendment governing recall elections. The amendment also provides that the reasons for a recall election shall be a political question, so that the courts cannot set aside a recall on the grounds that the reasons for it are in some way inadequate.¹</u></p> <p>At present, ¹[there is no constitutional right governing the removal of elected officials by a recall election, although by statute] <u>statutory provisions make¹ certain elected municipal and county officials ¹[are]¹ subject to removal by a recall election. However, ¹[because of]¹ constitutional ¹rather than statutory¹ provisions ¹[governing] <u>are necessary to provide for¹ the ¹recall¹ election of ¹the¹ Governor ¹[and],¹ members of the Legislature, ¹[the recall election of these officials must be constitutionally authorized] <u>U.S. Senators, and Congressmen¹. There are presently 15 states that have a Statewide recall election.</u></u></u></p>

¹SCHEDULE

This constitutional amendment shall become part of the Constitution on January 1 following the election at which is it approved. Any elected official in office on that January 1 shall be subject to recall immediately if the official has served at least one year in office on that date, or upon the completion of one year of service if the official has served less than one year on that date.¹

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Amends the Constitution to allow for recall elections as the Legislature may provide.

COMMITTEE RECOMMENDATION

The committee recommends that the provisions to allow for recall elections be amended to allow for recall elections as the Legislature may provide. The committee also recommends that the provisions to allow for recall elections be amended to allow for recall elections as the Legislature may provide. The committee also recommends that the provisions to allow for recall elections be amended to allow for recall elections as the Legislature may provide.

ACR6 [1R]

ASSEMBLY STATE GOVERNMENT COMMITTEE

STATEMENT TO

ASSEMBLY CONCURRENT RESOLUTION No. 6

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: JUNE 15, 1992

The Assembly State Government Committee reports favorably and with committee amendments Assembly Concurrent Resolution No. 6.

This amendment to the Constitution permits voters to remove, after at least one year of service, any elected official in this State or representing this State in the United States Congress through the process of a recall election. Upon petition of at least 25% of the registered voters in the electoral district of the official sought to be recalled, the question of whether to remove or retain the elected official shall be submitted to popular vote.

The Legislature is required to enact laws necessary to implement the operation of this constitutional amendment. If legislation to implement this constitutional amendment is not enacted within one year of the adoption of the amendment, the Secretary of State shall, by regulation, implement the constitutional amendment, except that regulations adopted by the Secretary of State shall be superseded by any subsequent legislation consistent with this constitutional amendment governing recall elections.

The constitutional amendment also provides that the reasons for a recall election shall be a political rather than a judicial question, so that the courts cannot set aside a recall. There are presently 15 states that have a Statewide recall election procedure.

This bill was pre-filed for introduction in the 1992 session pending technical review. As reported the bill includes the changes required by technical review which has been performed.

COMMITTEE AMENDMENTS

The committee adopted amendments to this bill conforming its provisions to those of Senate Concurrent Resolution No. 51 (1R), now on second reading in the Senate. The amendments would accomplish the following:

(1) Expand the reach of the recall power to include elected officers of local government, as well as of State government, and members of the United States Senate and House of Representatives representing this State;

(2) Require that, before being subject to recall, an officer shall have served at least one year of service;

(3) Revise the number of registered voters required upon a petition to recall an officer from "25% of the registered voters voting in the last preceding election for the office of Governor in the electoral district of the official sought to be recalled" to "25% of the registered voters" in that electoral district;

(4) Authorize the Secretary of State to implement the provisions of the amendment by regulation if implementing legislation is not enacted by the Legislature within one year of the adoption of the amendment; and

(5) Incorporate a provision that "[t]he sufficiency of any statement of reasons or grounds procedurally required shall be a political rather than a judicial question."

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Senator Randy Corman
District 19

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* * * * *

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ASSEMBLYMAN ROBERT J. MARTIN (Chairman): We have a quorum, just barely, of the Assembly State Government Committee. Lou Romano is subbing for Bernie Kenny. Assemblywoman Haines is here, and the Vice-Chairman is also here, Mr. Hartman, and myself. Mr. Russo and Mr. Rooney are downstairs. They'll be with us momentarily.

We're going to begin with a public hearing on ACR No. 6, which is a Concurrent Resolution to amend Article 1, paragraph 2 of the Constitution of New Jersey that deals with recall, permitting the public to have a recall of any elected official in New Jersey, from the Governor down to local officials, providing they get the proper number of signatures.

Is there anyone here who wishes to speak on this proposed ACR? Senator Corman, good morning.

S E N A T O R R A N D Y C O R M A N: Good morning, Mr. Chairman.

ASSEMBLYMAN MARTIN: You don't have to, you know, but we're glad that you are.

SENATOR CORMAN: I'm going to be real brief insofar as you have a long agenda.

ASSEMBLYMAN MARTIN: And we're coming apart already, it seems.

SENATOR CORMAN: This ACR is identical to SCR-51, sponsored by myself and Senator Dorsey. I want to thank you for holding this public hearing so we can proceed to put it on the ballot in November. All it does is, it simply extends the provisions now provided under the Faulkner Act for 140-some of our municipalities, and extends those recall provisions to every elected official in the State whether it be the Governor, members of the Legislature, or local borough council. I think it's an example of the change that the country is looking for, and I'll be happy to answer any questions that the Committee might have.

ASSEMBLYMAN MARTIN: I know from my experience, and you can comment on this as well-- I have been an attorney involved with several Faulkner Act municipalities. I've never seen it work in a way that created a real problem. It is used on occasion, and as you pointed it, it's been around for quite awhile for some municipalities. There seems no reason why it couldn't be extended for State officials, as well as to the other remaining elected local officials.

SENATOR CORMAN: I agree.

ASSEMBLYMAN MARTIN: Thank you, Senator.

SENATOR CORMAN: Thank you.

ASSEMBLYMAN MARTIN: Is there anyone else who wishes to speak on this? (no response) Seeing none, we will close the public hearing. Thank you.

(HEARING CONCLUDED)