

Public Hearing

before

SENATE STATE GOVERNMENT COMMITTEE

SENATE CONCURRENT RESOLUTION No. 51 (1R)

(Amends the Constitution to provide
for recall elections)

LOCATION: Committee Room 12
Legislative Office Building
Trenton, New Jersey

DATE: June 15, 1992
10:10 a.m.

MEMBERS OF COMMITTEE PRESENT:

Senator Joseph L. Bubba, Chairman
Senator William E. Schluter

ALSO PRESENT:

Joseph P. Capalbo
Office of Legislative Services
Aide, Senate State Government 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

SENATE STATE GOVERNMENT COMMITTEE

LEGISLATIVE OFFICE BUILDING, CN-068

TRENTON, NEW JERSEY 08625-0068

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COMMITTEE NOTICE

TO: MEMBERS OF THE SENATE STATE GOVERNMENT
COMMITTEE

FROM: SENATOR JOSEPH L. BUBBA, CHAIRMAN

SUBJECT: COMMITTEE MEETING - June 15, 1992

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

The Senate State Government Committee will meet on **Monday, June 15, 1992 at 10:00 A.M. in Committee Room 12 of the Legislative Office Building, Trenton, New Jersey** to consider the following bills:

- | | |
|-----------------------|--|
| S-526
Lipman | Provides for the enrollment of certain officers in PFRS. |
| S-670
Cafiero | Authorizes special preference in appointments and promotions for former members of the Coast Guard who have received the Medal of Honor or Navy Cross. |
| S-820
Corman/Ewing | Provides that the State Lottery Commission will establish a Statewide network of video lottery machines. |
| S-821
Bubba/Corman | Creates an additional property tax rebate program for eligible senior citizens to be funded by video lottery net proceeds. |

(OVER)

Issued 6/9/92

S-845
Rice
A-975(1R)
Anderson

Permits members of PFRS to continue membership in certain administrative and supervisory positions.

SR-31
Cafiero

Memorializes Congress to extend the tax exemption of states' mortgage revenue bonds.

A-1176
Moran/C.Connors

Permits transfer from supplemental annuity accounts to repay certain retirement system loans.

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

SCR-51(1R)
Dorsey/Corman

Amends the Constitution to provide for recall elections.

Issued 6/9/92

SENATE STATE GOVERNMENT COMMITTEE

STATEMENT TO

SENATE CONCURRENT RESOLUTION No. 51

with Senate committee amendments

STATE OF NEW JERSEY

DATED: MAY 18, 1992

The Senate State Government Committee reports with committee amendments and without recommendation Senate Concurrent Resolution No. 51.

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.

COMMITTEE AMENDMENTS

The committee amended the concurrent resolution to clarify that any law enacted to provide for a recall election shall include a provision that a recall election shall be held upon petition of at least 25% of the registered voters in the electoral district of the official sought to be recalled.

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THE END OF THE WORLD

[FIRST REPRINT]
SENATE CONCURRENT RESOLUTION No. 51

STATE OF NEW JERSEY

INTRODUCED MAY 7, 1992

By Senators DORSEY and CORMAN

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 Senate of the State of New Jersey
5 (the General Assembly 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 elections¹. Any such laws shall include a provision that a recall
21 election shall be held¹ upon petition of at least 25% of the
22 registered voters in the electoral district of the official sought to
23 be recalled. If legislation to implement this constitutional
24 amendment is not enacted within one year of the adoption of the
25 amendment, the Secretary of State shall, by regulation,
26 implement the constitutional amendment, except that regulations
27 adopted by the Secretary of State shall be superseded by any
28 subsequent legislation consistent with this constitutional
29 amendment governing recall elections. The sufficiency of any
30 statement of reasons or grounds procedurally required shall be a
31 political rather than a judicial question.

32 2. When this proposed amendment to the Constitution is finally
33 agreed to, pursuant to Article IX, paragraph 1 of the
34 Constitution, it shall be submitted to the people at the next
35 general election occurring more than three months after such
36 final agreement and shall be published at least once in at least
37 one newspaper of each county designated by the President of the
38 Senate and the Speaker of the General Assembly and the
39 Secretary of State, not less than three months prior to said
40 general election.

41 3. This proposed amendment to the Constitution shall be
42 submitted to the people at said election in the following manner

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:
Senate SSG committee amendments adopted May 18, 1992.

and form:

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

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

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

b. In every municipality the following question:

POWER OF ELECTORS TO REMOVE ELECTED OFFICIALS

YES.

Shall Article I, paragraph 2 of the Constitution be amended, as proposed by the Legislature, to provide for the recall election of elected officials?

INTERPRETIVE STATEMENT

NO.

This amendment to the Constitution permits the voters to remove elected officials, after at least one year of service, through the process of a recall election. Upon petition of registered voters, the question of whether to remove or retain an elected official may be submitted to popular vote. This applies to any elected official in this State and to the United States Senators and Congressmen elected from New Jersey. The Legislature is required to enact those 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 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.

At present, statutory provisions make certain elected municipal and county officials subject to removal by a recall election. However, constitutional rather than statutory provisions are necessary to provide for the recall election of the Governor, members of the Legislature, U.S. Senators, and Congressmen. There are presently 15 states that have a Statewide recall election.

SCHEDULE

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.

Amends the Constitution to provide for recall elections.

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Kathryn McMichael
Assistant Director
Governmental Relations
New Jersey School
Boards Association

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APPENDIX:

Position Statement
submitted by
Kathryn McMichael

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* * * * *

SENATOR JOSEPH L. BUBBA (Chairman): Good morning. I would like to call this public hearing to order. The purpose of this public hearing is to take testimony on Senate Concurrent Resolution No. 51, sponsored-- May I have your attention? If you have to have conversations, have them out in the hallway. Can everybody hear me back there? Because I can hear you.

Senate Concurrent Resolution No. 51, sponsored by Senator Dorsey and Senator Corman: Article 9, Paragraph 1 of the State Constitution mandates that a public hearing is to be held on all concurrent resolutions such as this one which proposes an amendment to the State Constitution. SCR-51 was released from the Senate State Government Committee on May 18, 1992. As is required by the Constitution, copies of SCR-51 were placed on the desks of the members of both Houses following the release of the bill by the Committee. The resolution must lie on the desks in each House in the form on which it is to be voted for 20 days before the vote can be taken.

The public hearing being held today is the next step in the process required by the State Constitution. When SCR-51 passes in both Houses by a three-fifths vote and is published in one or more newspapers in each county at least three months before the election, it may be submitted to the voters on the ballot for their approval. SCR-51 proposes an amendment to Article 1, Paragraph 2 of the Constitution of the State of New Jersey to permit the voters to remove elected officials after at least one year of service, through the process of a recall election.

The amendment calls upon the Legislature to enact the law to implement the recall authorization. The legislation will provide that a recall election shall be held in any electoral district upon the petition of 25 percent of the registered voters of that district. The recall provision will

apply to any elected official in this State, and to United States Senators and Congressmen elected from New Jersey. 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 superceded 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.

I will now call upon any any person who wishes to testify on SCR-51.

Please come forward.

KATHRYN McMICHAEL: Good morning, Mr. Chairman, and members of the Committee.

I am Kathy McMichael, from the New Jersey School Boards Association. I have a position statement on the recall, which I will just summarize.

We originally believed that school board members would not be subject to this amendment, but we have been told, by ruling through your counsel, that we are subject to it, so we have written a position statement opposing this type of an amendment.

I would like to summarize that for you now:

We oppose it if this will permit voters to remove after at least one year of service any elected officials in New Jersey or in the United States -- Senators or Congressmen elected from New Jersey. This bill claims to return good government to the people by providing a mechanism to oust public officials in the name of the public good. Yet, according to the proposed amendment, the public good is being

determined by a mere 25 percent of the registered voters in the electoral district of the official being recalled.

The simple fact of the matter is that this bill is divisive and stands to promote special interest groups within a community. Any voter that is dissatisfied with an elected official for reasons that may or may not be politically driven, can organize to have the individual removed from office. Nowhere in the amendment does it discuss recourse provisions for the recalled candidate. Imagine the type of leadership that this form of political power creates!

Finally, who is to say that one year in office provides adequate assessment for the voting public to be well versed on the issues or the officials' abilities. It appears that instead of empowering the people, this amendment may disenfranchise many of them.

We are concerned because school budgets specifically withstand the emotional vote of the public. You know our budgets are voted down many, many times, and we feel that school board members would suffer a similar scrutiny and elimination.

New Jersey School Boards Association policy opposes the establishment of procedures for the recall of board members. The Association believes the potential for political abuse by extremist groups and collective bargaining agents far outweigh any advantage of being able to recall board members, who must stand review and public scrutiny every three years.

The Association feels that competency and accountability are better achieved through preservice and inservice training. Additionally, we have a bill which was just passed -- it is a law now -- the recent ethics laws, which address oversight, sanctions, and removal procedures for officeholders who are not responsive to their constituencies or duties while in office.

Therefore, we oppose this bill.

SENATOR BUBBA: But you support the Congressmen, Governor, Senators, Assemblymen for one year, right? Or do you support recall for no one?

MS. McMICHAEL: Recall for board members, we feel--

SENATOR BUBBA: No, I just asked you a question. Do you support recall for everybody else?

MS. McMICHAEL: We support the idea of recall-- We specifically have to address the board members, because we feel we have a different type of area than the other people do.

SENATOR BUBBA: Yes, they're special.

Would anyone else like to speak on SCR-51? (no response) Hearing none-- Senator Schluter, do you wish to comment on SCR-51?

SENATOR SCHLUTER: I made my comments the last time. Thank you, Senator.

SENATOR BUBBA: All right. Then I think we will adjourn the hearing on SCR-51 at this time.

(HEARING CONCLUDED)

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APPENDIX

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1. The first step in the process of identifying a problem is to recognize that a problem exists. This is often done by comparing current performance with a desired state or goal. If there is a significant difference, a problem is identified.

1. The first of these is the fact that the
2. Government has not been able to secure the
3. necessary funds to carry out its policy.
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5. Government has not been able to secure the
6. necessary funds to carry out its policy.
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8. Government has not been able to secure the
9. necessary funds to carry out its policy.
10. This is due to the fact that the
11. Government has not been able to secure the
12. necessary funds to carry out its policy.

1. The first of the following is
the only one which is a
true statement. The other
three are false. Which one
is the true statement?

CLASSIFICATION: UNCLASSIFIED
CONTROL NUMBER: 100-441142



New Jersey School Boards Association

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POSITION STATEMENT

SCR-51/ACR-6 (Dorsey/Haytaian)

AMENDS THE STATE CONSTITUTION TO PROVIDE FOR RECALL ELECTION

The New Jersey School Boards Association opposes SCR-51/ACR-6 which would permit voters to remove, after at least one year of service, any elected officials in New Jersey or any United States Senator and Congressman elected from New Jersey.

This bill claims to return good government to the people by providing a mechanism to oust public officials in the name of the public good. Yet, according to the proposed amendment, the public good is being determined by a mere 25 percent of the registered voters in the electoral district of the official being recalled.

The simple fact of the matter is that this bill is divisive and stands to promote special interest groups within a community. Any voter that is dissatisfied with an elected official for reasons that may or may not be politically driven can organize to have the individual removed from office. Nowhere in the amendment does it discuss recourse provisions for the recalled candidate. Imagine the type of leadership that this form of political power creates! Finally, who is say that one year in office provides adequate assessment time for the voting public to be well versed on the issues or the officials' abilities. It appears that instead of empowering the people, this amendment would disenfranchise many of them.

School budgets already withstand the emotional vote of the public. It goes without saying that school board members would suffer similar scrutiny and elimination. NJSBA policy opposes the establishment of procedures for the recall of board members. The Association believes that the potential for political abuse by extremist groups and collective bargaining agents far outweigh any advantages of being able to recall board members who must stand review and public scrutiny every 3 years.

The Association feels that competency and accountability are better achieved through preservice and inservice training. Additionally, recent Ethics laws address oversight, sanctions and removal procedures for officeholders who are not responsive to their constituencies or duties while in office.

**WE, THEREFORE, OPPOSE THIS AMENDMENT AND URGE YOU TO VOTE NO ON
SCR-51/ACR-6.**

