



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

BARBARA D. UNDERWOOD
ATTORNEY GENERAL

(518) 776-2000

June 5, 2018

Mary-Anne E. Dandles
Clerk of the Assembly
New York State Assembly
Albany, NY 12248

Francis W. Patience
Secretary of the Senate
New York State Senate
Albany, New York 12247

Re: Senate No. 8309

Dear Mr. Patience and Ms. Dandles:

In accordance with Article 19, section 1 of the Constitution, the Assembly has requested my opinion as to the legal effect of the amendment proposed by the above-designated concurrent resolution upon the other provisions of the Constitution. Members of my staff have reviewed the relevant provisions.

This concurrent resolution proposes to add a new article 5-A, relating to state government integrity.

If adopted, the proposed amendment would constitute a restriction upon the general legislative powers vested in the Senate and Assembly (Article 3, section 1), as well as upon the Legislature's power to strike out or reduce items in the Governor's appropriation bills (Article 7, section 4). It additionally would limit the Governor's discretion to prepare the budget and to propose appropriations (Article 7, sections 2 and 3).

The proposed amendment also would impose duties upon the Governor in addition to those enumerated in Article 4, sections 3 and 4, and upon the State Comptroller in addition to those enumerated in Article 5, section 1.

The proposed amendment, if adopted, would create a method of removing a state officer in addition to the process of impeachment established by Article 6, section 24.

If adopted, the proposed amendment could be viewed as creating an exception to section 20(b)(1) of Article 6's prohibition against a judge of the Court of Appeals or a justice

of the Supreme Court holding another public trust. *See People v. Hall*, 169 N.Y. 184, 195 (1901). It also could be viewed as creating an exception to the prohibition against requiring any test as a qualification for any office of public trust except the oath prescribed in Article 13, section 1.

Although I have called your attention to certain provisions of the Constitution that will be or may be affected by such proposed amendment, the scope of the proposal is such that such enumeration cannot be considered to note each aspect of the Constitution that would or could be touched upon by such amendment.

Sincerely,

A handwritten signature in black ink that reads "Barbara D. Underwood". The signature is written in a cursive style with a long horizontal flourish extending to the right.

BARBARA D. UNDERWOOD