

May 11, 2018

Kathryn Sheingold, Asst. Solicitor General  
Attorney Generals Office  
State of New York  
Capitol  
Albany, New York 12224

Dear Ms. Sheingold:

Pursuant to Section 1, Article 19 of the Constitution, the enclosed proposed constitutional amendment contained in Assembly Bill Number:

A. 10651

is hereby referred to you to render an opinion in writing to the Senate and Assembly as to the effect of such amendment upon other provisions of the Constitution.

Sincerely,

Mary-Anne E. Dandles  
Clerk of the Assembly



# STATE OF NEW YORK

10651

Referred the Attorney General

## IN ASSEMBLY

for opinion

5/18/18

Returned

6/7/18

May 10, 2018

Introduced by M. of A. CARROLL -- read once and referred to the Committee on Governmental Operations

### CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY

proposing that the constitution be amended by adding a new article V-A; in relation to state government integrity

1 Section 1. Resolved (if the Senate concur), That the constitution be  
2 amended by adding a new article V-A to read as follows:

#### ARTICLE V-A

#### STATE GOVERNMENT INTEGRITY

##### Sec.

6 1. Declarations of the people.

7 2. New York state government integrity commission.

8 3. Additional powers of the commission.

9 4. Funding of the commission.

10 5. State code of ethics.

11 6. Recommending revisions of campaign contribution limits.

12 7. Transparency.

13 Section 1. a. The people of New York expect officers and employees of  
14 the state to observe laws, rules and regulations that specify high stan-  
15 dards of ethical conduct designed to avoid the reality and appearance of  
16 corruption, conflict of interest, self-dealing and breach of the public  
17 trust. Equally they expect that candidates for state office and others  
18 seeking to influence state elections to observe laws, rules and regu-  
19 lations designed to regulate actual and potential corruption and  
20 conflicts of interest by regulating the influence of money in politics  
21 and making transparent the financing and expenditures of efforts to  
22 influence voters. To protect the integrity and freedom from corruption  
23 of the use of state power to enact laws, establish rules and regu-  
24 lations, and contract for goods and services funded in whole or in part  
25 with state taxes and other revenues, the people of New York expect  
26 observance of laws, rules and regulations that regulate lobbying, lobby-  
27 ists and government procurement. To ensure the appropriate workplace  
28 conduct of state officers and employees and those who interact with such  
29 officers and employees while dealing with the state and its instrumen-  
30 talities, the people of New York expect that all such persons will  
31 observe laws, rules and regulations setting standards of appropriate and  
32 non-discriminatory workplace behavior.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD89139-02-8



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: Assembly No. 10651

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