

Senate Engrossed

voter protection act; court determinations

State of Arizona
Senate
Fifty-fifth Legislature
First Regular Session
2021

SENATE CONCURRENT RESOLUTION 1034

A CONCURRENT RESOLUTION

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF ARIZONA; AMENDING ARTICLE IV, PART 1, SECTION 1, CONSTITUTION OF ARIZONA; RELATING TO INITIATIVE AND REFERENDUM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it resolved by the Senate of the State of Arizona, the House of
2 Representatives concurring:

3 1. Article IV, part 1, section 1, Constitution of Arizona, is
4 proposed to be amended as follows if approved by the voters and on
5 proclamation of the Governor:

6 1. Legislative authority; initiative and referendum

7 Section 1. (1) Senate; house of representatives;
8 reservation of power to people. The legislative authority of
9 the state shall be vested in the legislature, consisting of a
10 senate and a house of representatives, but the people reserve
11 the power to propose laws and amendments to the constitution
12 and to enact or reject such laws and amendments at the polls,
13 independently of the legislature; and they also reserve, for
14 use at their own option, the power to approve or reject at the
15 polls any act, or item, section, or part of any act, of the
16 legislature.

17 (2) Initiative power. The first of these reserved
18 powers is the initiative. Under this power ten ~~per centum~~
19 PERCENT of the qualified electors shall have the right to
20 propose any measure, and fifteen ~~per centum~~ PERCENT shall have
21 the right to propose any amendment to the constitution.

22 (3) Referendum power; emergency measures; effective
23 date of acts. The second of these reserved powers is the
24 referendum. Under this power the legislature, or five ~~per~~
25 ~~centum~~ PERCENT of the qualified electors, may order the
26 submission to the people at the polls of any measure, or item,
27 section, or part of any measure, enacted by the legislature,
28 except laws immediately necessary for the preservation of the
29 public peace, health, or safety, or for the support and
30 maintenance of the departments of the state government and
31 state institutions; but to allow opportunity for referendum
32 petitions, no act passed by the legislature shall be operative
33 for ninety days after the close of the session of the
34 legislature enacting such measure, except such as require
35 earlier operation to preserve the public peace, health, or
36 safety, or to provide appropriations for the support and
37 maintenance of the departments of the state and of state
38 institutions; provided, that no such emergency measure shall
39 be considered passed by the legislature unless it shall state
40 in a separate section why it is necessary that it shall become
41 immediately operative, and shall be approved by the
42 affirmative votes of two-thirds of the members elected to each
43 house of the legislature, taken by roll call of ayes and nays,
44 and also approved by the governor; and should such measure be
45 vetoed by the governor, it shall not become a law unless it

1 shall be approved by the votes of three-fourths of the members
2 elected to each house of the legislature, taken by roll call
3 of ayes and nays.

4 (4) Initiative and referendum petitions; filing. All
5 petitions submitted under the power of the initiative shall be
6 known as initiative petitions, and shall be filed with the
7 secretary of state not less than four months preceding the
8 date of the election at which the measures so proposed are to
9 be voted upon. All petitions submitted under the power of the
10 referendum shall be known as referendum petitions, and shall
11 be filed with the secretary of state not more than ninety days
12 after the final adjournment of the session of the legislature
13 which shall have passed the measure to which the referendum is
14 applied. The filing of a referendum petition against any
15 item, section, or part of any measure shall not prevent the
16 remainder of such measure from becoming operative.

17 (5) Effective date of initiative and referendum
18 measures. Any measure or amendment to the constitution
19 proposed under the initiative, and any measure to which the
20 referendum is applied, shall be referred to a vote of the
21 qualified electors, and shall become law when approved by a
22 majority of the votes cast thereon and upon proclamation of
23 the governor, and not otherwise.

24 (6) (A) Veto of initiative or referendum. The veto
25 power of the governor shall not extend to an initiative
26 measure approved by a majority of the votes cast thereon or to
27 a referendum measure decided by a majority of the votes cast
28 thereon.

29 (6) (B) Legislature's power to repeal initiative or
30 referendum. The legislature shall not have the power to
31 repeal an initiative measure approved by a majority of the
32 votes cast thereon or to repeal a referendum measure decided
33 by a majority of the votes cast thereon.

34 (6) (C) Legislature's power to amend initiative or
35 referendum. The legislature shall not have the power to amend
36 an initiative measure approved by a majority of the votes cast
37 thereon, or to amend a referendum measure decided by a
38 majority of the votes cast thereon, unless the amending
39 legislation furthers the purposes of such measure and at least
40 three-fourths of the members of each house of the legislature,
41 by a roll call of ayes and nays, vote to amend such measure OR
42 UNLESS THE MEASURE IS FOUND TO CONTAIN ILLEGAL OR
43 UNCONSTITUTIONAL LANGUAGE BY THE ARIZONA SUPREME COURT OR THE
44 UNITED STATES SUPREME COURT.

1 (6) (D) Legislature's power to appropriate or divert
2 funds created by initiative or referendum. The legislature
3 shall not have the power to appropriate or divert funds
4 created or allocated to a specific purpose by an initiative
5 measure approved by a majority of the votes cast thereon, or
6 by a referendum measure decided by a majority of the votes
7 cast thereon, unless the appropriation or diversion of funds
8 furthers the purposes of such measure and at least
9 three-fourths of the members of each house of the legislature,
10 by a roll call of ayes and nays, vote to appropriate or divert
11 such funds **OR UNLESS THE MEASURE IS FOUND TO CONTAIN ILLEGAL**
12 **OR UNCONSTITUTIONAL LANGUAGE BY THE ARIZONA SUPREME COURT OR**
13 **THE UNITED STATES SUPREME COURT.**

14 (7) Number of qualified electors. The whole number of
15 votes cast for all candidates for governor at the general
16 election last preceding the filing of any initiative or
17 referendum petition on a state or county measure shall be the
18 basis on which the number of qualified electors required to
19 sign such petition shall be computed.

20 (8) Local, city, town or county matters. The powers of
21 the initiative and the referendum are hereby further reserved
22 to the qualified electors of every incorporated city,
23 town,~~—~~ and county as to all local, city, town,~~—~~ or county
24 matters on which such incorporated cities, towns,~~—~~ and
25 counties are or shall be empowered by general laws to
26 legislate. Such incorporated cities, towns,~~—~~ and counties may
27 prescribe the manner of exercising said powers within the
28 restrictions of general laws. Under the power of the
29 initiative fifteen ~~per centum~~ **PERCENT** of the qualified
30 electors may propose measures on such local, city, town,~~—~~ or
31 county matters, and ten ~~per centum~~ **PERCENT** of the electors may
32 propose the referendum on legislation enacted within and by
33 such city, town,~~—~~ or county. Until provided by general law,
34 said cities and towns may prescribe the basis on which said
35 percentages shall be computed.

36 (9) Form and contents of initiative and of referendum
37 petitions; verification. Every initiative or referendum
38 petition shall be addressed to the secretary of state in the
39 case of petitions for or on state measures, and to the clerk
40 of the board of supervisors, city clerk,~~—~~ or corresponding
41 officer in the case of petitions for or on county, city,~~—~~ or
42 town measures; and shall contain the declaration of each
43 petitioner, for himself, that he is a qualified elector of the
44 state (and in the case of petitions for or on city, town,~~—~~ or
45 county measures, of the city, town,~~—~~ or county affected), his

1 post office address, the street and number, if any, of his
2 residence, and the date on which he signed such petition.
3 Each sheet containing petitioners' signatures shall be
4 attached to a full and correct copy of the title and text of
5 the measure so proposed to be initiated or referred to the
6 people, and every sheet of every such petition containing
7 signatures shall be verified by the affidavit of the person
8 who circulated said sheet or petition, setting forth that each
9 of the names on said sheet was signed in the presence of the
10 affiant and that in the belief of the affiant each signer was
11 a qualified elector of the state, or in the case of a city,
12 town,~~—~~ or county measure, of the city, town,~~—~~ or county
13 affected by the measure so proposed to be initiated or
14 referred to the people.

15 (10) Official ballot. When any initiative or referendum
16 petition or any measure referred to the people by the
17 legislature ~~shall be~~ IS filed, in accordance with this
18 section, with the secretary of state, ~~he~~ THE SECRETARY OF
19 STATE shall cause to be printed on the official ballot at the
20 next regular general election the title and number of said
21 measure, together with the words "yes" and "no" in such manner
22 that the electors may express at the polls their approval or
23 disapproval of the measure.

24 (11) Publication of measures. The text of all measures
25 to be submitted shall be published as proposed amendments to
26 the constitution are published, and in submitting such
27 measures and proposed amendments the secretary of state and
28 all other officers shall be guided by the general law until
29 legislation shall be especially provided therefor.

30 (12) Conflicting measures or constitutional amendments.
31 If two or more conflicting measures or amendments to the
32 constitution shall be approved by the people at the same
33 election, the measure or amendment receiving the greatest
34 number of affirmative votes shall prevail in all particulars
35 as to which there is conflict.

36 (13) Canvass of votes; proclamation. It shall be the
37 duty of the secretary of state, in the presence of the
38 governor and the chief justice of the supreme court, to
39 canvass the votes for and against each such measure or
40 proposed amendment to the constitution within thirty days
41 after the election, and upon the completion of the canvass the
42 governor shall forthwith issue a proclamation, giving the
43 whole number of votes cast for and against each measure or
44 proposed amendment, and declaring such measures or amendments

1 as are approved by a majority of those voting thereon to be
2 law.

3 (14) Reservation of legislative power. This section
4 shall not be construed to deprive the legislature of the right
5 to enact any measure except that the legislature shall not
6 have the power to adopt any measure that supersedes, in whole
7 or in part, any initiative measure approved by a majority of
8 the votes cast thereon or any referendum measure decided by a
9 majority of the votes cast thereon unless the superseding
10 measure furthers the purposes of the initiative or referendum
11 measure and at least three-fourths of the members of each
12 house of the legislature, by a roll call of ayes and nays,
13 vote to supersede such initiative or referendum measure OR
14 UNLESS THE MEASURE IS FOUND TO CONTAIN ILLEGAL OR
15 UNCONSTITUTIONAL LANGUAGE BY THE ARIZONA SUPREME COURT OR
16 UNITED STATES SUPREME COURT.

17 (15) Legislature's right to refer measure to the people.
18 Nothing in this section shall be construed to deprive or limit
19 the legislature of the right to order the submission to the
20 people at the polls of any measure, item, section, or part of
21 any measure.

22 (16) Self-executing. This section of the constitution
23 shall be, in all respects, self-executing.

24 2. The Secretary of State shall submit this proposition to the
25 voters at the next general election as provided by article XXI,
26 Constitution of Arizona.