



HOUSE OF REPRESENTATIVES

SB 1210

right of intervention; initiative; referendum

Sponsors: Senators Biggs, Allen, Driggs, et al.

DP Committee on Judiciary

DPA Caucus and COW

X As Transmitted to Governor

OVERVIEW

SB 1210 confers specified individuals an unconditional right to intervene in any proceeding in which the constitutionality, legality or application of a law which was enacted through an initiative or referendum is at issue.

HISTORY

An initiative is any measure taken out by the people that proposes new laws or amends the Arizona Revised Statutes or the Arizona Constitution. Arizona's registered voters may propose new laws, amend existing laws or propose constitutional amendments through the initiative petition process. Before the petition is printed and signatures collected, an application for a petition serial number along with a 100-word description and the complete text of the measure must be filed with the Secretary of State on a prescribed form. The Secretary of State cannot accept an application which was issued for circulation more than 24 months prior to the general election at which the measure is to be included.

A referendum is any measure, or item, section or part of any measure enacted by the Legislature during legislative session. A measure enacted by the Legislature that includes emergency laws may not be referred. Arizona's registered voters may circulate a petition to refer to the voters a measure or part of a measure passed by the legislature. An application for a referendum petition serial number along with a 100-word description and a copy of the measure must be filed with the Secretary of State before the circulation of the petition.

Pursuant to Rule 24 of the Rules of Civil Procedure there are two ways in which an individual may intervene in an action: Intervention of Right and Permissive Intervention. Under Rule 24(a), an individual may intervene as of right: (1) when a statute confers an unconditional right to intervene; or (2) when the applicant claims an interest relating to the property or transaction which is the subject of the action and the applicant is so situated that the disposition of the action may as a practical matter impair or impede the applicant's ability to protect that interest, unless the applicant's interest is adequately represented by existing parties. Under Rule 24 (b), anyone may be permitted to intervene in an action: (1) when a statute confers a conditional right to intervene; or (2) when an applicant's claim or defense and the main action have a question of law or fact in common. In exercising its discretion the court shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.

PROVISIONS

- Confers the following individuals an unconditional right to intervene in any proceeding in which the constitutionality, legality or application of a law which was enacted is at issue:

SB 1210

- If the law was enacted through an initiative, the official initiative proponent, whether an individual, a group of individuals or an organization that wishes to defend the law.
- If the law was enacted through a referendum, the legislator who was the first prime sponsor and wishes to defend the law.
- Asserts that the only objection that may be raised as a motion to intervene as of right is that the proposed intervenor does not have a good faith intention to defend to the law and allows any party or proposed intervenor may raise this objection.
- Specifies that a party who intervenes to defend a law is not liable for attorney fees or costs of any party who is challenging the constitutionality, legality or applicability of the law.