

REFERENCE TITLE: initiative, referendum; vote percentage requirements

State of Arizona
House of Representatives
Fifty-second Legislature
Second Regular Session
2016

HCR 2043

Introduced by
Representative Mesnard

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 House of Representatives of the State of Arizona, the
2 Senate concurring:

3 1. Article IV, part 1, section 1, Constitution of Arizona, is proposed
4 to be amended as follows if approved by the voters and on proclamation of the
5 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 and
12 to enact or reject such laws and amendments at the polls,
13 independently of the legislature; and they also reserve, for use
14 at their own option, the power to approve or reject at the polls
15 any act, or item, section, or part of any act, of the
16 legislature.

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

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

1 each house of the legislature, taken by roll call of ayes and
2 nays.

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

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

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

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

32 (6) (C) Legislature's power to amend initiative or
33 referendum. FOR INITIATIVE AND REFERENDUM MEASURES APPROVED
34 FROM 1998 THROUGH 2014, the legislature shall not have the power
35 to amend an initiative measure approved by a majority of the
36 votes cast thereon, or to amend a referendum measure ~~decided~~
37 APPROVED by a majority of the votes cast thereon, unless the
38 amending legislation furthers the purposes of such measure and
39 at least three-fourths of the members of each house of the
40 legislature, by a roll call of ayes and nays, vote to amend such
41 measure, EXCEPT THAT FOR MEASURES APPROVED AT THE 2016 GENERAL
42 ELECTION OR LATER, THE LEGISLATURE SHALL NOT HAVE THE POWER TO
43 AMEND AN INITIATIVE OR A REFERENDUM MEASURE APPROVED BY A
44 MAJORITY OF THE VOTES CAST THEREON, UNLESS THE LEGISLATURE
45 APPROVES THE AMENDMENT BY A GREATER PERCENTAGE OF THE MEMBERS OF
46 THE LEGISLATURE THAN THE PERCENTAGE OF VOTERS THAT APPROVED THE

1 INITIATIVE OR REFERENDUM MEASURE AND, IF THE INITIATIVE OR
2 REFERENDUM MEASURE WAS APPROVED BY AT LEAST TWO-THIRDS OF THE
3 VOTES CAST THEREON, THE AMENDING LEGISLATION FURTHERS THE
4 PURPOSES OF SUCH MEASURE.

5 (6) (D) Legislature's power to appropriate or divert
6 funds created by initiative or referendum. FOR INITIATIVE AND
7 REFERENDUM MEASURES APPROVED FROM 1998 THROUGH 2014, the
8 legislature shall not have the power to appropriate or divert
9 funds created or allocated to a specific purpose by an
10 initiative measure approved by a majority of the votes cast
11 thereon, or by a referendum measure ~~decided~~ APPROVED by a
12 majority of the votes cast thereon, unless the appropriation or
13 diversion of funds furthers the purposes of such measure and at
14 least three-fourths of the members of each house of the
15 legislature, by a roll call of ayes and nays, vote to
16 appropriate or divert such funds, EXCEPT THAT FOR MEASURES
17 APPROVED AT THE 2016 GENERAL ELECTION OR LATER, THE LEGISLATURE
18 SHALL NOT HAVE THE POWER TO DIVERT FUNDS CREATED OR ALLOCATED TO
19 A SPECIFIC PURPOSE BY AN INITIATIVE OR A REFERENDUM MEASURE
20 APPROVED BY A MAJORITY OF THE VOTES CAST THEREON, UNLESS THE
21 LEGISLATURE APPROVES THE DIVERSION OF FUNDS BY A GREATER
22 PERCENTAGE OF THE MEMBERS OF THE LEGISLATURE THAN THE PERCENTAGE
23 OF VOTERS THAT APPROVED THE INITIATIVE OR REFERENDUM MEASURE
24 AND, IF THE INITIATIVE OR REFERENDUM MEASURE WAS APPROVED BY AT
25 LEAST TWO-THIRDS OF THE VOTES CAST THEREON, THE DIVERSION OF
26 FUNDS FURTHERS THE PURPOSES OF SUCH MEASURE.

27 (7) Number of qualified electors. The whole number of
28 votes cast for all candidates for governor at the general
29 election last preceding the filing of any initiative or
30 referendum petition on a state or county measure shall be the
31 basis on which the number of qualified electors required to sign
32 such petition shall be computed.

33 (8) Local, city, town or county matters. The powers of
34 the initiative and the referendum are hereby further reserved to
35 the qualified electors of every incorporated city, town, and
36 county as to all local, city, town, or county matters on which
37 such incorporated cities, towns, and counties are or shall be
38 empowered by general laws to legislate. Such incorporated
39 cities, towns, and counties may prescribe the manner of
40 exercising said powers within the restrictions of general laws.
41 Under the power of the initiative fifteen ~~per-centum~~ PERCENT of
42 the qualified electors may propose measures on such local, city,
43 town, or county matters, and ten ~~per-centum~~ PERCENT of the
44 electors may propose the referendum on legislation enacted
45 within and by such city, town, or county. Until provided by

1 general law, said cities and towns may prescribe the basis on
2 which said percentages shall be computed.

3 (9) Form and contents of initiative and of referendum
4 petitions; verification. Every initiative or referendum
5 petition shall be addressed to the secretary of state in the
6 case of petitions for or on state measures, and to the clerk of
7 the board of supervisors, city clerk, or corresponding officer
8 in the case of petitions for or on county, city, or town
9 measures; and shall contain the declaration of each petitioner,
10 for himself, that he is a qualified elector of the state (and in
11 the case of petitions for or on city, town, or county measures,
12 of the city, town, or county affected), his post office address,
13 the street and number, if any, of his residence, and the date on
14 which he signed such petition. Each sheet containing
15 petitioners' signatures shall be attached to a full and correct
16 copy of the title and text of the measure so proposed to be
17 initiated or referred to the people, and every sheet of every
18 such petition containing signatures shall be verified by the
19 affidavit of the person who circulated said sheet or petition,
20 setting forth that each of the names on said sheet was signed in
21 the presence of the affiant and that in the belief of the
22 affiant each signer was a qualified elector of the state, or in
23 the case of a city, town, or county measure, of the city, town,
24 or county affected by the measure so proposed to be initiated or
25 referred to the people.

26 (10) Official ballot. When any initiative or referendum
27 petition or any measure referred to the people by the
28 legislature shall be filed, in accordance with this section,
29 with the secretary of state, he shall cause to be printed on the
30 official ballot at the next regular general election the title
31 and number of said measure, together with the words "yes" and
32 "no" in such manner that the electors may express at the polls
33 their approval or disapproval of the measure.

34 (11) Publication of measures. The text of all measures to
35 be submitted shall be published as proposed amendments to the
36 constitution are published, and in submitting such measures and
37 proposed amendments the secretary of state and all other
38 officers shall be guided by the general law until legislation
39 shall be especially provided therefor.

40 (12) Conflicting measures or constitutional amendments. If
41 two or more conflicting measures or amendments to the
42 constitution shall be approved by the people at the same
43 election, the measure or amendment receiving the greatest number
44 of affirmative votes shall prevail in all particulars as to
45 which there is conflict.

1 (13) Canvass of votes; proclamation. It shall be the duty
2 of the secretary of state, in the presence of the governor and
3 the chief justice of the supreme court, to canvass the votes for
4 and against each such measure or proposed amendment to the
5 constitution within thirty days after the election, and upon the
6 completion of the canvass the governor shall forthwith issue a
7 proclamation, giving the whole number of votes cast for and
8 against each measure or proposed amendment, and declaring such
9 measures or amendments as are approved by a majority of those
10 voting thereon to be law.

11 (14) Reservation of legislative power. This section
12 shall not be construed to deprive the legislature of the right
13 to enact any measure except that, **FOR INITIATIVE AND REFERENDUM**
14 **MEASURES APPROVED FROM 1998 THROUGH 2014**, the legislature shall
15 not have the power to adopt any measure that supersedes, in
16 whole or in part, any initiative measure approved by a majority
17 of the votes cast thereon or any referendum measure ~~decided~~
18 **APPROVED** by a majority of the votes cast thereon unless the
19 superseding measure furthers the purposes of the initiative or
20 referendum measure and at least three-fourths of the members of
21 each house of the legislature, by a roll call of ayes and nays,
22 vote to supersede such initiative or referendum measure, **EXCEPT**
23 **THAT FOR MEASURES APPROVED AT THE 2016 GENERAL ELECTION OR**
24 **LATER, THE LEGISLATURE SHALL NOT HAVE THE POWER TO SUPERSEDE, IN**
25 **WHOLE OR IN PART, AN INITIATIVE OR A REFERENDUM MEASURE APPROVED**
26 **BY A MAJORITY OF THE VOTES CAST THEREON, UNLESS THE LEGISLATURE**
27 **APPROVES THE SUPERSEDING LEGISLATION BY A GREATER PERCENTAGE OF**
28 **THE MEMBERS OF THE LEGISLATURE THAN THE PERCENTAGE OF VOTERS**
29 **THAT APPROVED THE INITIATIVE OR REFERENDUM MEASURE AND, IF THE**
30 **INITIATIVE OR REFERENDUM MEASURE WAS APPROVED BY AT LEAST**
31 **TWO-THIRDS OF THE VOTES CAST THEREON, THE SUPERSEDING**
32 **LEGISLATION FURTHERS THE PURPOSES OF SUCH MEASURE.**

33 (15) Legislature's right to refer measure to the people.
34 Nothing in this section shall be construed to deprive or limit
35 the legislature of the right to order the submission to the
36 people at the polls of any measure, item, section, or part of
37 any measure.

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

40 2. Section 1 applies retroactively to all initiative and referendum
41 measures approved by the voters at and after the November 2016 election.

42 3. The Secretary of State shall submit this proposition to the voters
43 at the next general election as provided by article XXI, Constitution of
44 Arizona.