

PROPOSITION 128
[SCR 1034 - 2021]

voter protection act; court determinations

ANALYSIS BY LEGISLATIVE COUNCIL

Proposition 128 would amend the Arizona Constitution to provide that the Legislature may amend or supersede an initiative or referendum measure if any part of the measure is found by the United States Supreme Court or the Arizona Supreme Court to contain illegal or unconstitutional language. The legislative action could occur by a majority vote of each house of the Legislature and would not be required to further the purpose of the measure.

The Arizona Constitution currently provides that if an initiative or referendum measure is approved by the voters, the following requirements (often referred to as "voter protection" or "Proposition 105" from 1998) apply:

1. The Legislature is prohibited from repealing the law.
2. The Legislature may amend or supersede the law (including diverting or repurposing monies in funds created by the law) only if the legislative action furthers the purpose of the law and is approved by at least three-fourths of the members of each house of the Legislature.