

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

HOUSE CONCURRENT RESOLUTION 2036

A CONCURRENT RESOLUTION

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF ARIZONA; REPEALING ARTICLE XXVIII, CONSTITUTION OF ARIZONA; AMENDING THE CONSTITUTION OF ARIZONA BY ADDING A NEW ARTICLE XXVIII; RELATING TO ENGLISH AS THE OFFICIAL LANGUAGE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Whereas, the United States is comprised of individuals from diverse
2 ethnic, cultural and linguistic backgrounds, and continues to benefit from
3 this rich diversity; and

4 Whereas, throughout the history of the United States, the common thread
5 binding individuals of differing backgrounds has been the English language,
6 which has permitted diverse individuals to discuss, debate and come to
7 agreement on contentious issues; and

8 Whereas, in recent years, the role of the English language as a common
9 language has been threatened by governmental actions that either ignore or
10 harm the role of English or that promote the use of languages other than
11 English in official governmental actions, and these governmental actions
12 promote division, confusion, error and inappropriate use of resources; and

13 Whereas, among the powers reserved to the States respectively is the
14 power to establish the English language as the official language of the
15 respective States, and otherwise to promote the English language within the
16 respective States, subject to the prohibitions enumerated in the Constitution
17 of the United States and federal statutes.

18 Therefore

19 Be it resolved by the House of Representatives of the State of Arizona, the
20 Senate concurring:

21 1. Article XXVIII, Constitution of Arizona, is proposed to be repealed
22 as follows if approved by the voters and on proclamation of the Governor:

23 Article XXVIII, Constitution of Arizona, relating to
24 English as the official language, is repealed.

25 2. A new article XXVIII, Constitution of Arizona, is proposed to be
26 added as follows if approved by the voters and on proclamation of the
27 Governor:

28 ARTICLE XXVIII. ENGLISH AS THE OFFICIAL LANGUAGE

29 1. Definitions

30 SECTION 1. IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE
31 REQUIRES:

32 1. "GOVERNMENT" INCLUDES ALL LAWS, PUBLIC PROCEEDINGS,
33 RULES, PUBLICATIONS, ORDERS, ACTIONS, PROGRAMS, POLICIES,
34 DEPARTMENTS, BOARDS, AGENCIES, ORGANIZATIONS AND
35 INSTRUMENTALITIES OF THIS STATE OR POLITICAL SUBDIVISIONS OF
36 THIS STATE, AS APPROPRIATE UNDER THE CIRCUMSTANCES TO A
37 PARTICULAR OFFICIAL ACTION.

38 2. "OFFICIAL ACTION" INCLUDES THE PERFORMANCE OF ANY
39 FUNCTION OR ACTION ON BEHALF OF THIS STATE OR A POLITICAL
40 SUBDIVISION OF THIS STATE OR REQUIRED BY STATE LAW THAT APPEARS
41 TO PRESENT THE VIEWS, POSITION OR IMPRIMATUR OF THE STATE OR
42 POLITICAL SUBDIVISION OR THAT BINDS OR COMMITS THE STATE OR
43 POLITICAL SUBDIVISION, BUT DOES NOT INCLUDE:

44 (a) THE TEACHING OF OR THE ENCOURAGEMENT OF LEARNING
45 LANGUAGES OTHER THAN ENGLISH.

- 1 (b) ACTIONS REQUIRED UNDER THE FEDERAL INDIVIDUALS WITH
- 2 DISABILITIES EDUCATION ACT OR OTHER FEDERAL LAWS.
- 3 (c) ACTIONS, DOCUMENTS OR POLICIES NECESSARY FOR TOURISM,
- 4 COMMERCE OR INTERNATIONAL TRADE.
- 5 (d) ACTIONS OR DOCUMENTS THAT PROTECT THE PUBLIC HEALTH
- 6 AND SAFETY, INCLUDING LAW ENFORCEMENT AND EMERGENCY SERVICES.
- 7 (e) ACTIONS THAT PROTECT THE RIGHTS OF VICTIMS OF CRIMES
- 8 OR CRIMINAL DEFENDANTS.
- 9 (f) USING TERMS OF ART OR PHRASES FROM LANGUAGES OTHER
- 10 THAN ENGLISH.
- 11 (g) USING OR PRESERVING NATIVE AMERICAN LANGUAGES.
- 12 (h) PROVIDING ASSISTANCE TO HEARING IMPAIRED OR
- 13 ILLITERATE PERSONS.
- 14 (i) INFORMAL AND NONBINDING TRANSLATIONS OR
- 15 COMMUNICATIONS AMONG OR BETWEEN REPRESENTATIVES OF GOVERNMENT
- 16 AND OTHER PERSONS IF THIS ACTIVITY DOES NOT AFFECT OR IMPAIR
- 17 SUPERVISION, MANAGEMENT, CONDUCT OR EXECUTION OF OFFICIAL
- 18 ACTIONS AND IF THE REPRESENTATIVES OF GOVERNMENT MAKE CLEAR THAT
- 19 THESE TRANSLATIONS OR COMMUNICATIONS ARE UNOFFICIAL AND ARE NOT
- 20 BINDING ON THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE.
- 21 (j) ACTIONS NECESSARY TO PRESERVE THE RIGHT TO PETITION
- 22 FOR THE REDRESS OF GRIEVANCES.
- 23 3. "PRESERVE, PROTECT AND ENHANCE THE ROLE OF ENGLISH"
- 24 INCLUDES:
- 25 (a) AVOIDING ANY OFFICIAL ACTIONS THAT IGNORE, HARM OR
- 26 DIMINISH THE ROLE OF ENGLISH AS THE LANGUAGE OF GOVERNMENT.
- 27 (b) PROTECTING THE RIGHTS OF PERSONS IN THIS STATE WHO
- 28 USE ENGLISH.
- 29 (c) ENCOURAGING GREATER OPPORTUNITIES FOR INDIVIDUALS TO
- 30 LEARN THE ENGLISH LANGUAGE.
- 31 (d) TO THE GREATEST EXTENT POSSIBLE UNDER FEDERAL
- 32 STATUTE, PROVIDING SERVICES, PROGRAMS, PUBLICATIONS, DOCUMENTS
- 33 AND MATERIALS IN ENGLISH.
- 34 4. "REPRESENTATIVES OF GOVERNMENT" INCLUDES ALL
- 35 INDIVIDUALS OR ENTITIES DURING THE PERFORMANCE OF THE
- 36 INDIVIDUAL'S OR ENTITY'S OFFICIAL ACTIONS.
- 37 2. Official language of Arizona
- 38 SECTION 2. THE OFFICIAL LANGUAGE OF THE STATE OF ARIZONA
- 39 IS ENGLISH.
- 40 3. Preserving and enhancing the role of the official
- 41 language; right to use English
- 42 SECTION 3. A. REPRESENTATIVES OF GOVERNMENT IN THIS
- 43 STATE SHALL PRESERVE, PROTECT AND ENHANCE THE ROLE OF ENGLISH AS
- 44 THE OFFICIAL LANGUAGE OF THE GOVERNMENT OF ARIZONA.

1 B. A PERSON SHALL NOT BE DISCRIMINATED AGAINST OR
2 PENALIZED IN ANY WAY BECAUSE THE PERSON USES OR ATTEMPTS TO USE
3 ENGLISH IN PUBLIC OR PRIVATE COMMUNICATION.

4 4. Official actions to be conducted in English

5 SECTION 4. OFFICIAL ACTIONS SHALL BE CONDUCTED IN
6 ENGLISH.

7 5. Rules of construction

8 SECTION 5. THIS ARTICLE SHALL NOT BE CONSTRUED
9 TO PROHIBIT ANY REPRESENTATIVE OF GOVERNMENT, INCLUDING A MEMBER
10 OF THE LEGISLATURE, WHILE PERFORMING OFFICIAL DUTIES, FROM
11 COMMUNICATING UNOFFICIALLY THROUGH ANY MEDIUM WITH ANOTHER
12 PERSON IN A LANGUAGE OTHER THAN ENGLISH IF OFFICIAL ACTION IS
13 CONDUCTED IN ENGLISH.

14 6. Standing; notification of attorney general;
15 recovery of costs

16 SECTION 6. A. A PERSON WHO RESIDES OR DOES BUSINESS IN
17 THIS STATE MAY FILE A CIVIL ACTION FOR RELIEF FROM ANY OFFICIAL
18 ACTION THAT VIOLATES THIS ARTICLE IN A MANNER THAT CAUSES INJURY
19 TO THE PERSON.

20 B. A PERSON WHO RESIDES OR DOES BUSINESS IN THIS STATE
21 AND WHO CONTENDS THAT THIS ARTICLE IS NOT BEING IMPLEMENTED OR
22 ENFORCED MAY FILE A CIVIL ACTION TO DETERMINE IF THE FAILURE OR
23 INACTION COMPLAINED OF IS A VIOLATION OF THIS ARTICLE AND FOR
24 INJUNCTIVE OR MANDATORY RELIEF.

25 C. A PERSON SHALL NOT FILE AN ACTION UNDER THIS SECTION
26 UNLESS THE PERSON HAS NOTIFIED THE ATTORNEY GENERAL OF THE
27 ALLEGED VIOLATION AND THE ATTORNEY GENERAL OR OTHER APPROPRIATE
28 REPRESENTATIVE OF GOVERNMENT HAS NOT PROVIDED APPROPRIATE RELIEF
29 WITHIN A REASONABLE TIME UNDER THE CIRCUMSTANCES. AN ACTION
30 FILED UNDER THIS SECTION MAY BE IN ADDITION TO OR IN LIEU OF ANY
31 ACTION BY OFFICERS OF THIS STATE, INCLUDING THE ATTORNEY
32 GENERAL.

33 D. A PERSON WHO FILES AND IS SUCCESSFUL IN AN ACTION
34 UNDER THIS SECTION MAY BE AWARDED ALL COSTS EXPENDED OR INCURRED
35 IN THE ACTION, INCLUDING REASONABLE ATTORNEY FEES.

36 3. This amendment is intended to be self-executing and does not
37 require implementing legislation, but, subject to the provisions of the
38 amendment if adopted, the legislature may enact any measure designed to
39 further the purposes of the amendment.

40 4. If a provision of this amendment or its application to any person
41 or circumstance is held invalid, the invalidity does not affect other
42 provisions or application of the amendment that can be given effect without
43 the invalid provision or application, and to this end the provisions of this
44 amendment are severable.

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