

REFERENCE TITLE: initiatives; conflicting federal law; preemption

State of Arizona
House of Representatives
Fifty-third Legislature
Second Regular Session
2018

HCR 2008

Introduced by
Representative Leach

A CONCURRENT RESOLUTION

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

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

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

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

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

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

(6) (C) Legislature's power to amend initiative or referendum. The legislature shall not have the power to amend an initiative measure approved by a majority of the votes cast thereon, or to amend a referendum measure decided by a majority of the votes cast thereon, unless the amending legislation furthers the purposes of such measure and at least three-fourths of the members of each house of the legislature, by a roll call of ayes and nays, vote to amend such measure.

(6) (D) Legislature's power to appropriate or divert funds created by initiative or referendum. The legislature shall not have the power to appropriate or divert funds created or allocated to a specific purpose by an initiative

1 measure approved by a majority of the votes cast thereon, or
2 by a referendum measure decided by a majority of the votes
3 cast thereon, unless the appropriation or diversion of funds
4 furthers the purposes of such measure and at least
5 three-fourths of the members of each house of the legislature,
6 by a roll call of ayes and nays, vote to appropriate or divert
7 such funds.

8 (7) Number of qualified electors. The whole number of
9 votes cast for all candidates for governor at the general
10 election last preceding the filing of any initiative or
11 referendum petition on a state or county measure shall be the
12 basis on which the number of qualified electors required to
13 sign such petition shall be computed.

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

30 (9) Form and contents of initiative and of referendum
31 petitions; verification. Every initiative or referendum
32 petition shall be addressed to the secretary of state in the
33 case of petitions for or on state measures, and to the clerk
34 of the board of supervisors, city clerk, or corresponding
35 officer in the case of petitions for or on county, city, or
36 town measures; and shall contain the declaration of each
37 petitioner, for himself, that he is a qualified elector of the
38 state (and in the case of petitions for or on city, town, or
39 county measures, of the city, town, or county affected), his
40 post office address, the street and number, if any, of his
41 residence, and the date on which he signed such petition.
42 Each sheet containing petitioners' signatures shall be
43 attached to a full and correct copy of the title and text of
44 the measure so proposed to be initiated or referred to the
45 people, and every sheet of every such petition containing

1 signatures shall be verified by the affidavit of the person
2 who circulated said sheet or petition, setting forth that each
3 of the names on said sheet was signed in the presence of the
4 affiant and that in the belief of the affiant each signer was
5 a qualified elector of the state, or in the case of a city,
6 town, or county measure, of the city, town, or county affected
7 by the measure so proposed to be initiated or referred to the
8 people.

9 (10) PREEMPTION BY OR CONFLICTS WITH FEDERAL LAW. AT
10 ANY TIME AFTER AN INITIATIVE PETITION IS CIRCULATED FOR
11 SIGNATURES AND BEFORE THE INITIATIVE MEASURE IS CERTIFIED FOR
12 PRINTING ON THE BALLOT, THE ATTORNEY GENERAL SHALL DETERMINE
13 WHETHER THE INITIATIVE MEASURE IS PREEMPTED BY FEDERAL LAW AND
14 WHETHER THE INITIATIVE MEASURE CONFLICTS WITH FEDERAL LAW. IF
15 THE ATTORNEY GENERAL DETERMINES THAT THE INITIATIVE MEASURE IS
16 PREEMPTED BY OR CONFLICTS WITH FEDERAL LAW, OR BOTH, THE
17 ATTORNEY GENERAL SHALL NOTIFY THE SECRETARY OF STATE THAT THE
18 INITIATIVE MEASURE IS DISQUALIFIED FROM AND SHALL NOT APPEAR
19 ON THE BALLOT.

20 ~~(10)~~ (11) Official ballot. When any initiative or
21 referendum petition or any measure referred to the people by
22 the legislature shall be filed, in accordance with this
23 section, with the secretary of state AND EXCEPT AS PRESCRIBED
24 BY PARAGRAPH 10 OF THIS SECTION, he shall cause to be printed
25 on the official ballot at the next regular general election
26 the title and number of said measure, together with the words
27 "yes" and "no" in such manner that the electors may express at
28 the polls their approval or disapproval of the measure.

29 ~~(11)~~ (12) Publication of measures. The text of all
30 measures to be submitted shall be published as proposed
31 amendments to the constitution are published, and in
32 submitting such measures and proposed amendments the secretary
33 of state and all other officers shall be guided by the general
34 law until legislation shall be especially provided therefor.

35 ~~(12)~~ (13) Conflicting measures or constitutional
36 amendments. If two or more conflicting measures or amendments
37 to the constitution shall be approved by the people at the
38 same election, the measure or amendment receiving the greatest
39 number of affirmative votes shall prevail in all particulars
40 as to which there is conflict.

41 ~~(13)~~ (14) Canvass of votes; proclamation. It shall be
42 the duty of the secretary of state, in the presence of the
43 governor and the chief justice of the supreme court, to
44 canvass the votes for and against each such measure or
45 proposed amendment to the constitution within thirty days

after the election, and upon the completion of the canvass the governor shall forthwith issue a proclamation, giving the whole number of votes cast for and against each measure or proposed amendment, and declaring such measures or amendments as are approved by a majority of those voting thereon to be law.

~~(14)~~ (15) Reservation of legislative power. This section shall not be construed to deprive the legislature of the right to enact any measure except that the legislature shall not have the power to adopt any measure that supersedes, in whole or in part, any initiative measure approved by a majority of the votes cast thereon or any referendum measure decided by a majority of the votes cast thereon unless the superseding measure furthers the purposes of the initiative or referendum measure and at least three-fourths of the members of each house of the legislature, by a roll call of ayes and nays, vote to supersede such initiative or referendum measure.

~~(15)~~ (16) Legislature's right to refer measure to the people. Nothing in this section shall be construed to deprive or limit the legislature of the right to order the submission to the people at the polls of any measure, item, section, or part of any measure.

~~(16)~~ (17) Self-executing. This section of the constitution shall be, in all respects, self-executing.

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