

ASSEMBLY JOINT RESOLUTION NO. 5—ASSEMBLYMEN
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MARCH 21, 2005

Referred to Committee on Elections, Procedures, Ethics,
and Constitutional Amendments

SUMMARY—Proposes to amend Nevada Constitution to revise
provisions governing petition for initiative or
referendum. (BDR C-1399)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets [omitted material] is material to be omitted.

ASSEMBLY JOINT RESOLUTION—Proposing to amend the
Nevada Constitution to revise the provisions governing a
petition for initiative or referendum.

Legislative Counsel's Digest:

Existing law requires that an initiative petition be signed by at least 10 percent of the voters who voted at the last preceding general election in at least 75 percent of the counties in the State. (Nev. Const., Art. 19, § 2)

The United States District Court for the District of Nevada declared that the above portion of Article 19, § 2 of the Nevada Constitution violates the Equal Protection Clause of the United States Constitution because it applies the same formula to counties of varying population. Such application results in the signatures of voters from small, rural counties carrying more weight than the signatures of voters from larger counties. (*Committee to Regulate and Control Marijuana v. Heller*, No. CV-S-04-1035 JCM (LRL) (D.Nev. Aug. 20, 2004) (order denying preliminary injunction))

This resolution proposes to amend the Nevada Constitution to remove those provisions that were found unconstitutional. This resolution proposes that an initiative petition proposing a statute or an amendment to a statute must be instituted by a number of registered voters in each congressional district equal to 15 percent or more of the number of voters who voted at the last general election in that district, but the total number of voters signing the petition must be equal to 15 percent or more of the voters who voted in the entire State at the last general election. Further, if 55 percent or more of the voters disapprove the initiative



measure, any measure that is substantially similar may not be instituted on the ballot at the next succeeding general election.

This resolution proposes to amend the Nevada Constitution to require that any initiative petition proposing a constitutional amendment must be proposed by a number of registered voters in each congressional district equal to 20 percent or more of the number of voters who voted at the last general election in that district, but the total number of voters signing the petition must be equal to 20 percent or more of the voters who voted in the entire State at the last general election.

Existing law requires that an initiative petition relating to any local, special or municipal legislation must be instituted by a number of registered voters equal to 15 percent or more of the voters who voted at the last general county or municipal election. A referendum petition must be instituted by 10 percent or more of such voters. (Nev. Const., Art. 19, § 4)

This resolution proposes to amend the Nevada Constitution to require that an initiative petition relating to any local, special or municipal legislation must be instituted by a number of registered voters in the county or municipality equal to 20 percent or more of the voters who voted in the last general county or municipal election. A referendum petition must be instituted by 15 percent or more of such voters. Further, if 55 percent or more of the voters disapprove the initiative measure, any measure that is substantially similar may not be instituted on the ballot at the next succeeding primary or general election.

RESOLVED BY THE ASSEMBLY AND SENATE OF THE STATE OF NEVADA, JOINTLY, That Section 1 of Article 19 of the Nevada Constitution be amended to read as follows:

Section 1. 1. A person who intends to circulate a petition that a statute or resolution or part thereof enacted by the Legislature be submitted to a vote of the people, before circulating the petition for signatures, shall file a copy thereof with the Secretary of State. He shall file the copy not earlier than August 1 of the year before the year in which the election will be held.

2. Whenever a number of registered voters of this State equal to 10 percent or more of the number of voters who voted at the last preceding general election shall express their wish by filing with the Secretary of State, not less than 120 days before the next general election, a petition in the form provided for in Section 3 of this Article that any statute or resolution or any part thereof enacted by the Legislature be submitted to a vote of the people, the officers charged with the duties of announcing and proclaiming elections and of certifying nominations or questions to be voted upon shall submit the question of approval or disapproval of such statute or resolution or any part thereof to a vote of the voters at the next succeeding election at which such question may be voted upon by the registered voters of the entire State. *The number of registered voters required to file the petition must be determined at the time the copy of the petition is filed with*



1 *the Secretary of State pursuant to this section.* The
2 circulation of the petition shall cease on the day the petition is
3 filed with the Secretary of State or such other date as may be
4 prescribed for the verification of the number of signatures
5 affixed to the petition, whichever is earliest.

6 3. If a majority of the voters voting upon the proposal
7 submitted at such election votes approval of such statute or
8 resolution or any part thereof, such statute or resolution or
9 any part thereof shall stand as the law of the State and shall
10 not be amended, annulled, repealed, set aside, suspended or in
11 any way made inoperative except by the direct vote of the
12 people. If a majority of such voters votes disapproval of such
13 statute or resolution or any part thereof, such statute or
14 resolution or any part thereof shall be void and of no effect.

15 And be it further

16 RESOLVED, That Section 2 of Article 19 of the Nevada
17 Constitution be amended to read as follows:

18 Sec. 2. 1. Notwithstanding the provisions of Section 1
19 of Article 4 of this Constitution, but subject to the limitations
20 of Section 6 of this Article, the people reserve to themselves
21 the power to propose, by initiative petition, statutes and
22 amendments to statutes and amendments to this Constitution,
23 and to enact or reject them at the polls.

24 2. ~~[An initiative petition shall be in the form required by~~
25 ~~Section 3 of this Article and shall be proposed by a number of~~
26 ~~registered voters equal to 10 percent or more of the number of~~
27 ~~voters who voted at the last preceding general election in not~~
28 ~~less than 75 percent of the counties in the State, but the total~~
29 ~~number of registered voters signing the initiative petition~~
30 ~~shall be equal to 10 percent or more of the voters who voted~~
31 ~~in the entire State at the last preceding general election.]~~

32 ~~—3. If the]~~ *An* initiative petition *that* proposes a statute or
33 an amendment to a statute ~~[, the]~~ *must be in the form*
34 *required by Section 3 of this Article and must be proposed*
35 *by a number of registered voters from each congressional*
36 *district in this State equal to 15 percent or more of the*
37 *number of voters who voted at the last preceding general*
38 *election in the congressional district, but the total number of*
39 *registered voters signing the initiative petition must be equal*
40 *to 15 percent or more of the voters who voted in the entire*
41 *State at the last preceding general election. The number of*
42 *registered voters required to file the petition must be*
43 *determined at the time the copy of the petition is filed with*
44 *the Secretary of State pursuant to this Section. The person*



1 who intends to circulate ~~[H]~~ *the initiative petition that*
2 *proposes a statute or an amendment to a statute* shall file a
3 copy *of the petition* with the Secretary of State before
4 beginning circulation and not earlier than January 1 of the
5 year preceding the year in which a regular session of the
6 Legislature is held. After its circulation, it shall be filed with
7 the Secretary of State not less than 30 days prior to any
8 regular session of the Legislature. The circulation of the
9 petition shall cease on the day the petition is filed with the
10 Secretary of State or such other date as may be prescribed for
11 the verification of the number of signatures affixed to the
12 petition, whichever is earliest. The Secretary of State shall
13 transmit such petition to the Legislature as soon as the
14 Legislature convenes and organizes. The petition shall take
15 precedence over all other measures except appropriation bills,
16 and the statute or amendment to a statute proposed thereby
17 shall be enacted or rejected by the Legislature without change
18 or amendment within 40 days. If the proposed statute or
19 amendment to a statute is enacted by the Legislature and
20 approved by the Governor in the same manner as other
21 statutes are enacted, such statute or amendment to a statute
22 shall become law, but shall be subject to referendum petition
23 as provided in Section 1 of this Article. If the statute or
24 amendment to a statute is rejected by the Legislature, or if no
25 action is taken thereon within 40 days, the Secretary of State
26 shall submit the question of approval or disapproval of such
27 statute or amendment to a statute to a vote of the voters at the
28 next succeeding general election. If a majority of the voters
29 voting on such question at such election votes approval of
30 such statute or amendment to a statute, it shall become law
31 and take effect upon completion of the canvass of votes by
32 the Supreme Court. An initiative measure so approved by the
33 voters shall not be amended, annulled, repealed, set aside or
34 suspended by the Legislature within 3 years from the date it
35 takes effect. If a majority of such voters votes disapproval of
36 such statute or amendment to a statute, no further action shall
37 be taken on such petition ~~[H]~~, *and if 55 percent or more of*
38 *such voters vote for the disapproval of such statute or*
39 *amendment to a statute, an initiative petition must not be*
40 *instituted to place a measure on the ballot at the next*
41 *succeeding general election that is substantially similar to*
42 *the statute or amendment to a statute that was disapproved*
43 *by the voters.* If the Legislature rejects such proposed statute
44 or amendment, the Governor may recommend to the
45 Legislature and the Legislature may propose a different



measure on the same subject, in which event, after such different measure has been approved by the Governor, the question of approval or disapproval of each measure shall be submitted by the Secretary of State to a vote of the voters at the next succeeding general election. If the conflicting provisions submitted to the voters are both approved by a majority of the voters voting on such measures, the measure which receives the largest number of affirmative votes shall thereupon become law. If at the session of the Legislature to which an initiative petition proposing an amendment to a statute is presented which the Legislature rejects or upon which it takes no action, the Legislature amends the statute which the petition proposes to amend in a respect which does not conflict in substance with the proposed amendment, the Secretary of State in submitting the statute to the voters for approval or disapproval of the proposed amendment shall include the amendment made by the Legislature.

~~[4.—If the]~~

3. An initiative petition *that* proposes an amendment to the Constitution ~~[, the]~~ *must be in the form required by Section 3 of this Article and must be proposed by a number of registered voters from each congressional district in this State equal to 20 percent or more of the number of voters who voted at the last preceding general election in the congressional district, but the total number of registered voters signing the initiative petition must be equal to 20 percent or more of the voters who voted in the entire State at the last preceding general election. The number of registered voters required to file the petition must be determined at the time the copy of the petition is filed with the Secretary of State pursuant to this Section. The* person who intends to circulate ~~[it]~~ *the initiative petition that proposes an amendment to the Constitution* shall file a copy *of the petition* with the Secretary of State before beginning circulation and not earlier than September 1 of the year before the year in which the election is to be held. After its circulation it shall be filed with the Secretary of State not less than 90 days before any regular general election at which the question of approval or disapproval of such amendment may be voted upon by the voters of the entire State. The circulation of the petition shall cease on the day the petition is filed with the Secretary of State or such other date as may be prescribed for the verification of the number of signatures affixed to the petition, whichever is earliest. The Secretary of State shall cause to be published in a newspaper of general



1 circulation, on three separate occasions, in each county in the
2 State, together with any explanatory matter which shall be
3 placed upon the ballot, the entire text of the proposed
4 amendment. If a majority of the voters voting on such
5 question at such election votes disapproval of such
6 amendment, no further action shall be taken on the petition. If
7 a majority of such voters votes approval of such amendment,
8 the Secretary of State shall publish and resubmit the question
9 of approval or disapproval to a vote of the voters at the next
10 succeeding general election in the same manner as such
11 question was originally submitted. If a majority of such voters
12 votes disapproval of such amendment, no further action shall
13 be taken on such petition. If a majority of such voters votes
14 approval of such amendment, it shall, unless precluded by
15 subsection 4 or 5, ~~for 6.~~ become a part of this Constitution
16 upon completion of the canvass of votes by the Supreme
17 Court.

18 ~~{5.}~~ 4. If two or more measures which affect the same
19 Section of a statute or of the Constitution are finally approved
20 pursuant to this Section, or an amendment to the Constitution
21 is finally so approved and an amendment proposed by the
22 Legislature is ratified which affect the same Section, by the
23 voters at the same election:

24 (a) If all can be given effect without contradiction in
25 substance, each shall be given effect.

26 (b) If one or more contradict in substance the other or
27 others, the measure which received the largest favorable vote,
28 and any other approved measure compatible with it, shall be
29 given effect. If the one or more measures that contradict in
30 substance the other or others receive the same number of
31 favorable votes, none of the measures that contradict another
32 shall be given effect.

33 ~~{6.}~~ 5. If, at the same election as the first approval of a
34 constitutional amendment pursuant to this Section, another
35 amendment is finally approved pursuant to this Section, or an
36 amendment proposed by the Legislature is ratified, which
37 affects the same Section of the Constitution but is compatible
38 with the amendment given first approval, the Secretary of
39 State shall publish and resubmit at the next general election
40 the amendment given first approval as a further amendment
41 to the Section as amended by the amendment given final
42 approval or ratified. If the amendment finally approved or
43 ratified contradicts in substance the amendment given first
44 approval, the Secretary of State shall not submit the
45 amendment given first approval to the voters again.



1 And be it further

2 RESOLVED, That Section 4 of Article 19 of the Nevada
3 Constitution be amended to read as follows:

4 Sec. 4. **1.** The initiative and referendum powers
5 provided for in this Article are further reserved to the
6 registered voters of each county and each municipality as to
7 all local, special and municipal legislation of every kind in or
8 for such county or municipality. In counties and
9 municipalities initiative petitions may be instituted by a
10 number of registered voters *in the county or municipality*
11 equal to ~~15~~ **20** percent or more of the voters who voted at
12 the last preceding general county or municipal election.
13 Referendum petitions may be instituted by ~~10~~ **15** percent or
14 more of such voters.

15 **2.** *If an initiative petition that is instituted in a county*
16 *or municipality is submitted to the voters of the county or*
17 *municipality at an election and 55 percent or more of the*
18 *voters vote for the disapproval of the measure, an initiative*
19 *petition must not be instituted to place a measure on the*
20 *ballot at the next succeeding primary or general election*
21 *that is substantially similar to the measure which was*
22 *disapproved by the voters.*



