

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 must be instituted by a number of registered voters in each congressional district equal to 10 percent or more of the number of voters who voted at the last general election in that district.



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

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

11 2. Whenever a number of registered voters of this State
12 equal to 10 percent or more of the number of voters who
13 voted at the last preceding general election shall express their
14 wish by filing with the Secretary of State, not less than 120
15 days before the next general election, a petition in the form
16 provided for in Section 3 of this Article that any statute or
17 resolution or any part thereof enacted by the Legislature be
18 submitted to a vote of the people, the officers charged with
19 the duties of announcing and proclaiming elections and of
20 certifying nominations or questions to be voted upon shall
21 submit the question of approval or disapproval of such statute
22 or resolution or any part thereof to a vote of the voters at the
23 next succeeding election at which such question may be voted
24 upon by the registered voters of the entire State. *The number
25 of registered voters required to file the petition must be
26 determined at the time the copy of the petition is filed with
27 the Secretary of State pursuant to this section.* The
28 circulation of the petition shall cease on the day the petition is
29 filed with the Secretary of State or such other date as may be
30 prescribed for the verification of the number of signatures
31 affixed to the petition, whichever is earliest.

32 3. If a majority of the voters voting upon the proposal
33 submitted at such election votes approval of such statute or
34 resolution or any part thereof, such statute or resolution or
35 any part thereof shall stand as the law of the State and shall
36 not be amended, annulled, repealed, set aside, suspended or in
37 any way made inoperative except by the direct vote of the
38 people. If a majority of such voters votes disapproval of such
39 statute or resolution or any part thereof, such statute or
40 resolution or any part thereof shall be void and of no effect.

41 And be it further

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

44 Sec. 2. 1. Notwithstanding the provisions of Section 1
45 of Article 4 of this Constitution, but subject to the limitations



1 of Section 6 of this Article, the people reserve to themselves
2 the power to propose, by initiative petition, statutes and
3 amendments to statutes and amendments to this Constitution,
4 and to enact or reject them at the polls.

5 2. An initiative petition shall be in the form required by
6 Section 3 of this Article and shall be proposed by a number of
7 registered voters *from each congressional district in this*
8 *State* equal to 10 percent or more of the number of voters
9 who voted at the last preceding general election in ~~not less~~
10 ~~than 75 percent of the counties in the State, but the total~~
11 ~~number of registered voters signing the initiative petition~~
12 ~~shall be equal to 10 percent or more of the voters who voted~~
13 ~~in the entire State at the last preceding general election.]~~ *the*
14 *congressional district. The number of registered voters*
15 *required to file the initiative petition must be determined at*
16 *the time the copy of the initiative petition is filed with the*
17 *Secretary of State pursuant to this Section.*

18 3. If the initiative petition proposes a statute or an
19 amendment to a statute, the person who intends to circulate it
20 shall file a copy with the Secretary of State before beginning
21 circulation and not earlier than January 1 of the year
22 preceding the year in which a regular session of the
23 Legislature is held. After its circulation, it shall be filed with
24 the Secretary of State not less than 30 days prior to any
25 regular session of the Legislature. The circulation of the
26 petition shall cease on the day the petition is filed with the
27 Secretary of State or such other date as may be prescribed for
28 the verification of the number of signatures affixed to the
29 petition, whichever is earliest. The Secretary of State shall
30 transmit such petition to the Legislature as soon as the
31 Legislature convenes and organizes. The petition shall take
32 precedence over all other measures except appropriation bills,
33 and the statute or amendment to a statute proposed thereby
34 shall be enacted or rejected by the Legislature without change
35 or amendment within 40 days. If the proposed statute or
36 amendment to a statute is enacted by the Legislature and
37 approved by the Governor in the same manner as other
38 statutes are enacted, such statute or amendment to a statute
39 shall become law, but shall be subject to referendum petition
40 as provided in Section 1 of this Article. If the statute or
41 amendment to a statute is rejected by the Legislature, or if no
42 action is taken thereon within 40 days, the Secretary of State
43 shall submit the question of approval or disapproval of such
44 statute or amendment to a statute to a vote of the voters at the
45 next succeeding general election. If a majority of the voters



1 voting on such question at such election votes approval of
2 such statute or amendment to a statute, it shall become law
3 and take effect upon completion of the canvass of votes by
4 the Supreme Court. An initiative measure so approved by the
5 voters shall not be amended, annulled, repealed, set aside or
6 suspended by the Legislature within 3 years from the date it
7 takes effect. If a majority of such voters votes disapproval of
8 such statute or amendment to a statute, no further action shall
9 be taken on such petition. If the Legislature rejects such
10 proposed statute or amendment, the Governor may
11 recommend to the Legislature and the Legislature may
12 propose a different measure on the same subject, in which
13 event, after such different measure has been approved by the
14 Governor, the question of approval or disapproval of each
15 measure shall be submitted by the Secretary of State to a vote
16 of the voters at the next succeeding general election. If the
17 conflicting provisions submitted to the voters are both
18 approved by a majority of the voters voting on such
19 measures, the measure which receives the largest number of
20 affirmative votes shall thereupon become law. If at the
21 session of the Legislature to which an initiative petition
22 proposing an amendment to a statute is presented which the
23 Legislature rejects or upon which it takes no action, the
24 Legislature amends the statute which the petition proposes to
25 amend in a respect which does not conflict in substance with
26 the proposed amendment, the Secretary of State in submitting
27 the statute to the voters for approval or disapproval of the
28 proposed amendment shall include the amendment made by
29 the Legislature.

30 4. If the initiative petition proposes an amendment to the
31 Constitution, the person who intends to circulate it shall file a
32 copy with the Secretary of State before beginning circulation
33 and not earlier than September 1 of the year before the year in
34 which the election is to be held. After its circulation it shall
35 be filed with the Secretary of State not less than 90 days
36 before any regular general election at which the question of
37 approval or disapproval of such amendment may be voted
38 upon by the voters of the entire State. The circulation of the
39 petition shall cease on the day the petition is filed with the
40 Secretary of State or such other date as may be prescribed for
41 the verification of the number of signatures affixed to the
42 petition, whichever is earliest. The Secretary of State shall
43 cause to be published in a newspaper of general circulation,
44 on three separate occasions, in each county in the State,
45 together with any explanatory matter which shall be placed



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

15 5. If two or more measures which affect the same
16 Section of a statute or of the Constitution are finally approved
17 pursuant to this Section, or an amendment to the Constitution
18 is finally so approved and an amendment proposed by the
19 Legislature is ratified which affect the same Section, by the
20 voters at the same election:

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

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

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



