
SENATE JOINT RESOLUTION NO. 3—SENATOR RHOADS

FEBRUARY 16, 2005

Referred to Committee on Legislative Operations and Elections

SUMMARY—Proposes to amend Nevada Constitution to revise provisions relating to signature requirements for initiative petitions. (BDR C-708)

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.

SENATE JOINT RESOLUTION—Proposing to amend the Nevada Constitution to require that an initiative petition be proposed by a number of registered voters from each assembly district in the State equal to a certain percentage of the population of each assembly district in the State.

Legislative Counsel’s Digest:

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

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

12 This joint resolution proposes to amend the Nevada Constitution to remove
13 those provisions which were found unconstitutional and replace them with a
14 requirement that an initiative petition must be signed by a number of registered
15 voters from each assembly district in the State that equals at least 4 percent of the
16 population of the district, as determined by the last preceding decennial census.



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

4 Sec. 2. 1. Notwithstanding the provisions of section 1
5 of article 4 of this constitution, but subject to the limitations
6 of section 6 of this article, the people reserve to themselves
7 the power to propose, by initiative petition, statutes and
8 amendments to statutes and amendments to this constitution,
9 and to enact or reject them at the polls.

10 2. An initiative petition shall be in the form required by
11 section 3 of this article and shall be proposed by a number of
12 registered voters *from each assembly district in the state*
13 equal to ~~[10]~~ 4 percent or more of the ~~[number of voters who~~
14 ~~voted at the last preceding general election in not less than 75~~
15 ~~percent of the counties]~~ *population of each assembly district*
16 *in the state [, but the total number of registered voters signing*
17 *the initiative petition shall be equal to 10 percent or more of*
18 *the voters who voted in the entire state at the last preceding*
19 *general election.] , as determined by the last preceding*
20 *national decennial census conducted by the Bureau of the*
21 *Census of the United States Department of Commerce*
22 *pursuant to Section 2 of Article I of the Constitution of the*
23 *United States and reported by the Secretary of Commerce to*
24 *the governor pursuant to 13 U.S.C. § 141(c).*

25 3. If the initiative petition proposes a statute or an
26 amendment to a statute, the person who intends to circulate it
27 shall file a copy with the secretary of state before beginning
28 circulation and not earlier than January 1 of the year
29 preceding the year in which a regular session of the
30 legislature is held. After its circulation, it shall be filed with
31 the secretary of state not less than 30 days prior to any regular
32 session of the legislature. The circulation of the petition shall
33 cease on the day the petition is filed with the secretary of state
34 or such other date as may be prescribed for the verification of
35 the number of signatures affixed to the petition, whichever is
36 earliest. The secretary of state shall transmit such petition to
37 the legislature as soon as the legislature convenes and
38 organizes. The petition shall take precedence over all other
39 measures except appropriation bills, and the statute or
40 amendment to a statute proposed thereby shall be enacted or
41 rejected by the legislature without change or amendment
42 within 40 days. If the proposed statute or amendment to a
43 statute is enacted by the legislature and approved by the
44 governor in the same manner as other statutes are enacted,
45 such statute or amendment to a statute shall become law, but



1 shall be subject to referendum petition as provided in section
2 1 of this article. If the statute or amendment to a statute is
3 rejected by the legislature, or if no action is taken thereon
4 within 40 days, the secretary of state shall submit the question
5 of approval or disapproval of such statute or amendment to a
6 statute to a vote of the voters at the next succeeding general
7 election. If a majority of the voters voting on such question at
8 such election votes approval of such statute or amendment to
9 a statute, it shall become law and take effect upon completion
10 of the canvass of votes by the supreme court. An initiative
11 measure so approved by the voters shall not be amended,
12 annulled, repealed, set aside or suspended by the legislature
13 within 3 years from the date it takes effect. If a majority of
14 such voters votes disapproval of such statute or amendment to
15 a statute, no further action shall be taken on such petition. If
16 the legislature rejects such proposed statute or amendment,
17 the governor may recommend to the legislature and the
18 legislature may propose a different measure on the same
19 subject, in which event, after such different measure has been
20 approved by the governor, the question of approval or
21 disapproval of each measure shall be submitted by the
22 secretary of state to a vote of the voters at the next succeeding
23 general election. If the conflicting provisions submitted to the
24 voters are both approved by a majority of the voters voting on
25 such measures, the measure which receives the largest
26 number of affirmative votes shall thereupon become law. If at
27 the session of the legislature to which an initiative petition
28 proposing an amendment to a statute is presented which the
29 legislature rejects or upon which it takes no action, the
30 legislature amends the statute which the petition proposes to
31 amend in a respect which does not conflict in substance with
32 the proposed amendment, the secretary of state in submitting
33 the statute to the voters for approval or disapproval of the
34 proposed amendment shall include the amendment made by
35 the legislature.

36 4. If the initiative petition proposes an amendment to the
37 constitution, the person who intends to circulate it shall file a
38 copy with the secretary of state before beginning circulation
39 and not earlier than September 1 of the year before the year in
40 which the election is to be held. After its circulation it shall
41 be filed with the secretary of state not less than 90 days
42 before any regular general election at which the question of
43 approval or disapproval of such amendment may be voted
44 upon by the voters of the entire state. The circulation of the
45 petition shall cease on the day the petition is filed with the



1 secretary of state or such other date as may be prescribed for
2 the verification of the number of signatures affixed to the
3 petition, whichever is earliest. The secretary of state shall
4 cause to be published in a newspaper of general circulation,
5 on three separate occasions, in each county in the state,
6 together with any explanatory matter which shall be placed
7 upon the ballot, the entire text of the proposed amendment. If
8 a majority of the voters voting on such question at such
9 election votes disapproval of such amendment, no further
10 action shall be taken on the petition. If a majority of such
11 voters votes approval of such amendment, the secretary of
12 state shall publish and resubmit the question of approval or
13 disapproval to a vote of the voters at the next succeeding
14 general election in the same manner as such question was
15 originally submitted. If a majority of such voters votes
16 disapproval of such amendment, no further action shall be
17 taken on such petition. If a majority of such voters votes
18 approval of such amendment, it shall, unless precluded by
19 subsection 5 or 6, become a part of this constitution upon
20 completion of the canvass of votes by the supreme court.

21 5. If two or more measures which affect the same
22 section of a statute or of the constitution are finally approved
23 pursuant to this section, or an amendment to the constitution
24 is finally so approved and an amendment proposed by the
25 legislature is ratified which affect the same section, by the
26 voters at the same election:

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

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

36 6. If, at the same election as the first approval of a
37 constitutional amendment pursuant to this section, another
38 amendment is finally approved pursuant to this section, or an
39 amendment proposed by the legislature is ratified, which
40 affects the same section of the constitution but is compatible
41 with the amendment given first approval, the secretary of
42 state shall publish and resubmit at the next general election
43 the amendment given first approval as a further amendment
44 to the section as amended by the amendment given final
45 approval or ratified. If the amendment finally approved or



1 ratified contradicts in substance the amendment given first
2 approval, the secretary of state shall not submit the
3 amendment given first approval to the voters again.



