

SENATE JOINT RESOLUTION NO. 3—SENATORS
RHOADS, AMODEI AND MCGINNESS

FEBRUARY 20, 2007

Referred to Committee on Legislative Operations and Elections

SUMMARY—Proposes to amend the Nevada Constitution to revise provisions relating to signature requirements for initiative petitions. (BDR C-260)

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:

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 Section 2 of Article 19 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-04-01035 (D. Nev. Aug. 20, 2004)) The United States Court of Appeals for the Ninth Circuit affirmed the decision of the United States District Court. (*American Civil Liberties Union of Nevada v. Lomax*, 471 F.3d 1010 (9th Cir. Nev. 2006))

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



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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
32 regular session of the Legislature. The circulation of the
33 petition shall cease on the day the petition is filed with the
34 Secretary of State or such other date as may be prescribed for
35 the verification of the number of signatures affixed to the
36 petition, whichever is earliest. The Secretary of State shall
37 transmit such petition to the Legislature as soon as the
38 Legislature convenes and organizes. The petition shall take
39 precedence over all other measures except appropriation bills,
40 and the statute or amendment to a statute proposed thereby
41 shall be enacted or rejected by the Legislature without change
42 or amendment within 40 days. If the proposed statute or
43 amendment to a statute is enacted by the Legislature and
44 approved by the Governor in the same manner as other
45 statutes are enacted, such statute or amendment to a statute



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

37 4. If the initiative petition proposes an amendment to the
38 Constitution, the person who intends to circulate it shall file a
39 copy with the Secretary of State before beginning circulation
40 and not earlier than September 1 of the year before the year in
41 which the election is to be held. After its circulation it shall
42 be filed with the Secretary of State not less than 90 days
43 before any regular general election at which the question of
44 approval or disapproval of such amendment may be voted
45 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 circulation, on three separate occasions, in each county in the State, together with any explanatory matter which shall be placed upon the ballot, the entire text of the proposed amendment. If a majority of the voters voting on such question at such election votes disapproval of such amendment, no further action shall be taken on the petition. If a majority of such voters votes approval of such amendment, the Secretary of State shall publish and resubmit the question of approval or disapproval to a vote of the voters at the next succeeding general election in the same manner as such question was originally submitted. If a majority of such voters votes disapproval of such amendment, no further action shall be taken on such petition. If a majority of such voters votes approval of such amendment, it shall, unless precluded by subsection 5 or 6, become a part of this Constitution upon completion of the canvass of votes by the Supreme Court.

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

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

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

6. If, at the same election as the first approval of a constitutional amendment pursuant to this Section, another amendment is finally approved pursuant to this Section, or an amendment proposed by the Legislature is ratified, which affects the same section of the Constitution but is compatible with the amendment given first approval, the Secretary of State shall publish and resubmit at the next general election the amendment given first approval as a further amendment to the section as amended by the amendment given final



1 approval or ratified. If the amendment finally approved or
2 ratified contradicts in substance the amendment given first
3 approval, the Secretary of State shall not submit the
4 amendment given first approval to the voters again.

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