

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 equal to a certain percentage of the population of the State, or equal to a certain percentage of registered voters who voted in the last preceding election, who reside in each county of the State in the same proportion as the population of the county bears to the total population of 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 that equals at least 4 percent of the total population of the State, as determined by the last preceding decennial census, or at least 10 percent of the total number of voters



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who voted at the last preceding general election, whichever number is less. The signatures must be gathered from registered voters who reside in each county in the State in the same proportion as the population of the county bears to the total population of the State.

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

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

2. An initiative petition shall be in the form required by Section 3 of this Article and shall be proposed by a **total** number of registered voters equal to **at least** 10 percent ~~for more~~ of the number of voters who voted at the last preceding general election ~~[in not less than 75 percent of the counties]~~ **[in] or at least 4 percent of the total population of** the State ~~;~~ **but the total number of registered voters signing the initiative petition shall be equal to 10 percent or more of the voters who voted in the entire State at the last preceding general election.]** , **as determined by the last preceding national decennial census conducted by the Bureau of the Census of the United States Department of Commerce pursuant to Section 2 of Article I of the Constitution of the United States and reported by the Secretary of Commerce to the Governor pursuant to 13 U.S.C. § 141(c) [;], whichever total number of registered voters is less. The number of registered voters who propose the initiative petition must reside in each county of the State in the same proportion as the population of the applicable county bears to the total population of the State.**

3. If the initiative petition proposes a statute or an amendment to a statute, the person who intends to circulate it shall file a copy with the Secretary of State before beginning circulation and not earlier than January 1 of the year preceding the year in which a regular session of the Legislature is held. After its circulation, it shall be filed with the Secretary of State not less than 30 days prior to any regular session of the Legislature. 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 transmit such petition to the Legislature as soon as the Legislature convenes and organizes. The petition shall take precedence over all other measures except appropriation bills, and the statute or amendment to a statute proposed thereby shall be enacted or rejected by the Legislature without change or amendment within 40 days. If the proposed statute or amendment to a statute is enacted by the Legislature and approved by the Governor in the same manner as other statutes are enacted, such statute or amendment to a statute shall become law, but shall be subject to referendum petition as provided in Section 1 of this Article. If the statute or amendment to a statute is rejected by the Legislature, or if no action is taken thereon within 40 days, the Secretary of State shall submit the question of approval or disapproval of such statute or amendment to a statute to a vote of the voters at the next succeeding general election. If a majority of the voters voting on such question at such election votes approval of such statute or amendment to a statute, it shall become law and take effect upon completion of the canvass of votes by the Supreme Court. An initiative measure so approved by the voters shall not be amended, annulled, repealed, set aside or suspended by the Legislature within 3 years from the date it takes effect. If a majority of such voters votes disapproval of such statute or amendment to a statute, no further action shall be taken on such petition. If the Legislature rejects such proposed statute or amendment, the Governor may recommend to the 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



1 proposed amendment shall include the amendment made by
2 the Legislature.

3 4. If the initiative petition proposes an amendment to the
4 Constitution, the person who intends to circulate it shall file a
5 copy with the Secretary of State before beginning circulation
6 and not earlier than September 1 of the year before the year in
7 which the election is to be held. After its circulation it shall
8 be filed with the Secretary of State not less than 90 days
9 before any regular general election at which the question of
10 approval or disapproval of such amendment may be voted
11 upon by the voters of the entire State. The circulation of the
12 petition shall cease on the day the petition is filed with the
13 Secretary of State or such other date as may be prescribed for
14 the verification of the number of signatures affixed to the
15 petition, whichever is earliest. The Secretary of State shall
16 cause to be published in a newspaper of general circulation,
17 on three separate occasions, in each county in the State,
18 together with any explanatory matter which shall be placed
19 upon the ballot, the entire text of the proposed amendment. If
20 a majority of the voters voting on such question at such
21 election votes disapproval of such amendment, no further
22 action shall be taken on the petition. If a majority of such
23 voters votes approval of such amendment, the Secretary of
24 State shall publish and resubmit the question of approval or
25 disapproval to a vote of the voters at the next succeeding
26 general election in the same manner as such question was
27 originally submitted. If a majority of such voters votes
28 disapproval of such amendment, no further action shall be
29 taken on such petition. If a majority of such voters votes
30 approval of such amendment, it shall, unless precluded by
31 subsection 5 or 6, become a part of this Constitution upon
32 completion of the canvass of votes by the Supreme Court.

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

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

41 (b) If one or more contradict in substance the other or
42 others, the measure which received the largest favorable vote,
43 and any other approved measure compatible with it, shall be
44 given effect. If the one or more measures that contradict in
45 substance the other or others receive the same number of



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1 favorable votes, none of the measures that contradict another
2 shall be given effect.

3 6. If, at the same election as the first approval of a
4 constitutional amendment pursuant to this Section, another
5 amendment is finally approved pursuant to this Section, or an
6 amendment proposed by the Legislature is ratified, which
7 affects the same section of the Constitution but is compatible
8 with the amendment given first approval, the Secretary of
9 State shall publish and resubmit at the next general election
10 the amendment given first approval as a further amendment
11 to the section as amended by the amendment given final
12 approval or ratified. If the amendment finally approved or
13 ratified contradicts in substance the amendment given first
14 approval, the Secretary of State shall not submit the
15 amendment given first approval to the voters again.

