

ASSEMBLY JOINT RESOLUTION NO. 1—COMMITTEE ON ELECTIONS,
PROCEDURES, ETHICS, AND CONSTITUTIONAL AMENDMENTS

FEBRUARY 17, 2009

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

SUMMARY—Proposes to amend the Nevada Constitution to revise
the provisions governing a petition for a state
initiative or referendum. (BDR C-710)

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 a state initiative or a referendum.

Legislative Counsel’s Digest:

Pursuant to Section 2 of Article 19 of the Nevada Constitution, the people of the State of Nevada have reserved to themselves the power to propose statutes, amendments to statutes and amendments to the Nevada Constitution by initiative petition. If the petition meets certain criteria, it is placed on the general election ballot where the people of the State of Nevada are then given the right to vote to enact or reject such proposals. In 2006, however, a portion of this provision of the Nevada Constitution was held unconstitutional by the U.S. Court of Appeals for the Ninth Circuit. *ACLU of Nev. v. Lomax*, 471 F.3d 1010 (9th Cir. 2006). The Ninth Circuit Court found that the requirement that an initiative petition contain a certain number of signatures gathered from 75 percent of the counties in this State in order to qualify for the ballot (the “13 Counties Rule”) violated the equal protection principle of “one man, one vote” by diluting the votes of residents of densely populated counties and was not narrowly tailored. *Id.* at 1013. Thus, the Ninth Circuit Court held that Section 2 of Article 19 of the Nevada Constitution violated the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution. *Id.* The Court further indicated that if a certain number of voters were required from state legislative districts rather than counties, it would alleviate the equal protection concerns.

This resolution proposes to amend Article 19 of the Nevada Constitution to remove the unconstitutional provisions and instead require that an initiative petition be signed by a number of the registered voters from each congressional district in this State which equals 10 percent of the number of voters who voted at the last preceding general election in the congressional district. This resolution further



provides that the number of registered voters required to file an initiative or referendum petition must be determined at the time the copy of the petition is filed with the Secretary of State.

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 ~~for 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 the secretary of state pursuant to this Section.* 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.

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



1 And be it further

2 RESOLVED, 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 congressional district in this*
13 *State* equal to 10 percent ~~for more~~ of the number of voters
14 who voted at the last preceding general election in ~~not less~~
15 ~~than 75 percent of the counties in the State, but the total~~
16 ~~number of registered voters signing the initiative petition~~
17 ~~shall be equal to 10 percent or more of the voters who voted~~
18 ~~in the entire State at the last preceding general election.]~~ *the*
19 *congressional district. The number of registered voters*
20 *required to file the initiative petition must be determined at*
21 *the time the copy of the initiative petition is filed with the*
22 *Secretary of State pursuant to this Section.*

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



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

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



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

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

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

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

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



1 approval, the Secretary of State shall not submit the
2 amendment given first approval to the voters again.

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