

State of Arizona
Senate
Fifty-sixth Legislature
Second Regular Session
2024

SENATE CONCURRENT RESOLUTION 1041

A CONCURRENT RESOLUTION

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF ARIZONA; AMENDING ARTICLE IV,
PART 1, SECTION 1, CONSTITUTION OF ARIZONA; RELATING TO BALLOT MEASURES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it resolved by the Senate of the State of Arizona, the House of
2 Representatives concurring:

3 1. Article IV, part 1, section 1, Constitution of Arizona, is
4 proposed to be amended as follows if approved by the voters and on
5 proclamation of the Governor:

6 1. Legislative authority; initiative and referendum

7 Section 1. (1) Senate; house of representatives;
8 reservation of power to people. The legislative authority of
9 the state shall be vested in the legislature, consisting of a
10 senate and a house of representatives, but the people reserve
11 the power to propose laws and amendments to the constitution
12 and to enact or reject such laws and amendments at the polls,
13 independently of the legislature; and they also reserve, for
14 use at their own option, the power to approve or reject at the
15 polls any act, or item, section, or part of any act, of the
16 legislature.

17 (2) Initiative power. The first of these reserved
18 powers is the initiative. Under this power ten percent of the
19 qualified electors shall have the right to propose any measure,
20 and fifteen percent shall have the right to propose any
21 amendment to the constitution.

22 (3) Referendum power; emergency measures; effective date
23 of acts. The second of these reserved powers is the referendum.
24 Under this power the legislature, or five percent of the
25 qualified electors, may order the submission to the people at
26 the polls of any measure, or item, section or part of any
27 measure, enacted by the legislature, except laws immediately
28 necessary for the preservation of the public peace, health or
29 safety, or for the support and maintenance of the departments
30 of the state government and state institutions; but to allow
31 opportunity for referendum petitions, no act passed by the
32 legislature shall be operative for ninety days after the close
33 of the session of the legislature enacting such measure, except
34 such as require earlier operation to preserve the public peace,
35 health or safety, or to provide appropriations for the support
36 and maintenance of the departments of the state and of state
37 institutions; provided, that no such emergency measure shall be
38 considered passed by the legislature unless it shall state in a
39 separate section why it is necessary that it shall become
40 immediately operative, and shall be approved by the affirmative
41 votes of two-thirds of the members elected to each house of the
42 legislature, taken by roll call of ayes and nays, and also
43 approved by the governor; and should such measure be vetoed by
44 the governor, it shall not become a law unless it shall be
45 approved by the votes of three-fourths of the members elected

1 to each house of the legislature, taken by roll call of ayes
2 and nays.

3 (4) Initiative and referendum petitions; filing. All
4 petitions submitted under the power of the initiative shall be
5 known as initiative petitions, and shall be filed with the
6 secretary of state not less than four months preceding the date
7 of the election at which the measures so proposed are to be
8 voted upon. All petitions submitted under the power of the
9 referendum shall be known as referendum petitions, and shall be
10 filed with the secretary of state not more than ninety days
11 after the final adjournment of the session of the legislature
12 which shall have passed the measure to which the referendum is
13 applied. The filing of a referendum petition against any item,
14 section or part of any measure shall not prevent the remainder
15 of such measure from becoming operative.

16 (5) Effective date of initiative and referendum
17 measures. Any measure or amendment to the constitution proposed
18 under the initiative, and any measure to which the referendum
19 is applied, shall be referred to a vote of the qualified
20 electors, and for an initiative or referendum to approve a tax,
21 shall become law when approved by sixty percent of the votes
22 cast thereon and upon proclamation of the governor, and not
23 otherwise and for all other initiatives and referendums, shall
24 become law when approved by a majority of the votes cast thereon
25 and upon proclamation of the governor, and not otherwise.

26 (6) (A) Veto of initiative or referendum. The veto
27 power of the governor shall not extend to an initiative measure
28 to approve a tax that is approved by sixty percent of the votes
29 cast thereon or to a referendum measure to approve a tax that
30 is decided by sixty percent of the votes cast thereon and for
31 all other initiatives and referendums, the veto power of the
32 governor shall not extend to initiatives and referendums
33 approved by a majority of the votes cast thereon.

34 (6) (B) Legislature's power to repeal initiative or
35 referendum. The legislature shall not have the power to repeal
36 an initiative measure to approve a tax that is approved by sixty
37 percent of the votes cast thereon or to repeal a referendum
38 measure to approve a tax that is decided by sixty percent of
39 the votes cast thereon and for all other initiatives and
40 referendums, the legislature shall not have the power to repeal
41 an initiative measure approved by a majority of the votes cast
42 thereon and shall not have the power to repeal a referendum
43 measure decided by a majority of the votes cast thereon.

44 (6) (C) Legislature's power to amend initiative or
45 referendum. The legislature shall not have the power to amend

1 an initiative measure to approve a tax that is approved by sixty
2 percent of the votes cast thereon, or to amend a referendum
3 measure to approve a tax that is decided by sixty percent of
4 the votes cast thereon, unless the amending legislation furthers
5 the purposes of such measure and at least three-fourths of the
6 members of each house of the legislature, by a roll call of ayes
7 and nays, vote to amend such measure. For all other initiatives
8 and referendums, the legislature shall not have the power to
9 amend an initiative measure approved by a majority of the votes
10 cast thereon and shall not have the power to amend a referendum
11 measure decided by a majority of the votes cast thereon, unless
12 the amending legislation furthers the purposes of such measure
13 and at least three-fourths of the members of each house of the
14 legislature, by a roll call of ayes and nays, vote to amend such
15 measure.

16 (6) (D) Legislature's power to appropriate or divert
17 funds created by initiative or referendum. The legislature
18 shall not have the power to appropriate or divert funds created
19 or allocated to a specific purpose by an initiative measure that
20 also approves a tax that is approved by sixty percent of the
21 votes cast thereon, or by a referendum measure that also
22 approves a tax that is decided by sixty percent of the votes
23 cast thereon, unless the appropriation or diversion of funds
24 furthers the purposes of such measure and at least three-fourths
25 of the members of each house of the legislature, by a roll call
26 of ayes and nays, vote to appropriate or divert such funds. For
27 all other initiatives and referendums, the legislature shall
28 not have the power to appropriate or divert funds created or
29 allocated to a specific purpose by an initiative measure
30 approved by a majority of the votes cast thereon and shall not
31 have the power to appropriate or divert funds created or
32 allocated to a specific purpose by a referendum measure decided
33 by a majority of the votes cast thereon, unless the
34 appropriation or diversion of funds furthers the purposes of
35 such measure and at least three-fourths of the members of each
36 house of the legislature, by a roll call of ayes and nays, vote
37 to appropriate or divert such funds.

38 (7) Number of qualified electors. The whole number of
39 votes cast for all candidates for governor at the general
40 election last preceding the filing of any initiative or
41 referendum petition on a state or county measure shall be the
42 basis on which the number of qualified electors required to sign
43 such petition shall be computed.

44 (8) Local, city, town or county matters. The powers of
45 the initiative and the referendum are hereby further reserved

1 to the qualified electors of every incorporated city, town and
2 county as to all local, city, town or county matters on which
3 such incorporated cities, towns and counties are or shall be
4 empowered by general laws to legislate. Such incorporated
5 cities, towns and counties may prescribe the manner of
6 exercising said powers within the restrictions of general laws.
7 Under the power of the initiative fifteen percent of the
8 qualified electors may propose measures on such local, city,
9 town or county matters, and ten percent of the electors may
10 propose the referendum on legislation enacted within and by such
11 city, town or county. Until provided by general law, said
12 cities and towns may prescribe the basis on which said
13 percentages shall be computed.

14 (9) Form and contents of initiative and of referendum
15 petitions; verification. Every initiative or referendum
16 petition shall be addressed to the secretary of state in the
17 case of petitions for or on state measures, and to the clerk of
18 the board of supervisors, city clerk or corresponding officer
19 in the case of petitions for or on county, city or town measures;
20 and shall contain the declaration of each petitioner, for
21 himself, that he is a qualified elector of the state (and in
22 the case of petitions for or on city, town or county measures,
23 of the city, town or county affected), his post office address,
24 the street and number, if any, of his residence, and the date
25 on which he signed such petition. Every initiative measure
26 shall embrace but one subject and matters properly connected
27 therewith, which subject shall be expressed in the title; but
28 if any subject shall be embraced in an initiative measure which
29 shall not be expressed in the title, such initiative measure
30 shall be void only as to so much thereof as shall not be embraced
31 in the title. Each sheet containing petitioners' signatures
32 shall be attached to a full and correct copy of the title and
33 text of the measure so proposed to be initiated or referred to
34 the people, and every sheet of every such petition containing
35 signatures shall be verified by the affidavit of the person who
36 circulated said sheet or petition, setting forth that each of
37 the names on said sheet was signed in the presence of the affiant
38 and that in the belief of the affiant each signer was a qualified
39 elector of the state, or in the case of a city, town or county
40 measure, of the city, town or county affected by the measure so
41 proposed to be initiated or referred to the people.

42 (10) Official ballot. When any initiative or referendum
43 petition or any measure referred to the people by the
44 legislature is filed, in accordance with this section, with the
45 secretary of state, the secretary of state shall cause to be

1 printed on the official ballot at the next regular general
2 election the title and number of said measure, together with
3 the words "yes" and "no" in such manner that the electors may
4 express at the polls their approval or disapproval of the
5 measure.

6 (11) Publication of measures. The text of all measures
7 to be submitted shall be published as proposed amendments to
8 the constitution are published, and in submitting such measures
9 and proposed amendments the secretary of state and all other
10 officers shall be guided by the general law until legislation
11 shall be especially provided therefor.

12 (12) Conflicting measures or constitutional amendments.
13 If two or more conflicting measures or amendments to the
14 constitution shall be approved by the people at the same
15 election, the measure or amendment receiving the greatest number
16 of affirmative votes shall prevail in all particulars as to
17 which there is conflict.

18 (13) Canvass of votes; proclamation. It shall be the duty
19 of the secretary of state, in the presence of the governor and
20 the chief justice of the supreme court, to canvass the votes
21 for and against each such measure or proposed amendment to the
22 constitution within thirty days after the election, and upon
23 the completion of the canvass the governor shall forthwith issue
24 a proclamation, giving the whole number of votes cast for and
25 against each measure or proposed amendment, and declaring such
26 measures or amendments to approve a tax as are approved by sixty
27 percent of those voting thereon to be law and for all other
28 measures or amendments, declaring such measures as are approved
29 by a majority of those voting thereon to be law.

30 (14) Reservation of legislative power. This section
31 shall not be construed to deprive the legislature of the right
32 to enact any measure except that the legislature shall not have
33 the power to adopt any measure that supersedes, in whole or in
34 part, any initiative measure to approve a tax that is approved
35 by sixty percent of the votes cast thereon or any referendum
36 measure to approve a tax that is decided by sixty percent of
37 the votes cast thereon unless the superseding measure furthers
38 the purposes of the initiative or referendum measure and at
39 least three-fourths of the members of each house of the
40 legislature, by a roll call of ayes and nays, vote to supersede
41 such initiative or referendum measure. For all other
42 initiatives and referendums, the legislature shall not have the
43 power to adopt any measure that supersedes, in whole or in part,
44 any initiative measure approved by a majority of the votes cast
45 thereon and shall not have the power to adopt any measure that

1 supersedes, in whole or in part, any referendum measure decided
2 by a majority of the votes cast thereon, unless the superseding
3 measure furthers the purposes of the initiative or referendum
4 measure and at least three-fourths of the members of each house
5 of the legislature, by a roll call of ayes and nays, vote to
6 supersede such initiative or referendum measure.

7 (15) Legislature's right to refer measure to the people.
8 Nothing in this section shall be construed to deprive or limit
9 the legislature of the right to order the submission to the
10 people at the polls of any measure, item, section or part of
11 any measure.

12 (16) Self-executing. This section of the constitution
13 shall be, in all respects, self-executing.

14 (17) CHALLENGES TO THE CONSTITUTIONALITY OF INITIATIVE
15 MEASURES OR AMENDMENTS. AT ANY TIME AFTER A PETITION IN SUPPORT
16 OF A CONSTITUTIONAL AMENDMENT OR INITIATIVE MEASURE IS FILED
17 WITH THE SECRETARY OF STATE, A PERSON MAY BRING AN ACTION IN
18 SUPERIOR COURT AT LEAST ONE HUNDRED DAYS BEFORE THE DATE OF THE
19 ELECTION AT WHICH THE MEASURE OR AMENDMENT WILL BE VOTED ON TO
20 CONTEST THE CONSTITUTIONALITY OF THE MEASURE OR AMENDMENT ON
21 THE GROUNDS THAT, IF ENACTED, THE MEASURE OR AMENDMENT VIOLATES
22 THE CONSTITUTION OF THE UNITED STATES OR THIS CONSTITUTION. ANY
23 PARTY MAY APPEAL TO THE SUPREME COURT WITHIN FIVE CALENDAR DAYS
24 AFTER THE SUPERIOR COURT ENTERS JUDGMENT. IF, IN ANY ACTION
25 BROUGHT UNDER THIS SUBSECTION AT LEAST ONE HUNDRED DAYS BEFORE
26 THE DATE OF THE ELECTION AT WHICH THE MEASURE OR AMENDMENT WILL
27 BE VOTED ON, A COURT OF COMPETENT JURISDICTION ENTERS A JUDGMENT
28 FINDING THAT THE MEASURE OR AMENDMENT VIOLATES THE CONSTITUTION
29 OF THE UNITED STATES OR THIS CONSTITUTION, THE SECRETARY OF
30 STATE OR OTHER OFFICER SHALL NOT CERTIFY OR PRINT THE MEASURE
31 OR AMENDMENT ON THE OFFICIAL BALLOT.

32 Sec. 2. Findings and declaration of purpose

33 The legislature finds and declares as follows:

34 1. All laws, regardless of how the laws were enacted, must conform
35 to the Arizona Constitution and the United States Constitution. See Fann
36 v. State, 251 Ariz. 425 (2021).

37 2. The Arizona Supreme Court has long maintained, however, that it
38 lacks authority to adjudicate challenges to the constitutionality of an
39 initiative unless and until the initiative is adopted. See League of Ariz.
40 Cities and Towns v. Brewer, 213 Ariz. 557 (2006). One result of this
41 inability to obtain preelection judicial review is that voters and advocacy
42 organizations are compelled to invest time and resources supporting or
43 opposing proposals that may be intrinsically invalid.

44 3. This amendment expressly authorizes challenges to the
45 constitutional validity of proposed initiative measures or constitutional

1 amendments at any time after a petition is filed with the secretary of
2 state. If an action is commenced at least one hundred days before the
3 election, the court must hear and decide the case immediately and, if the
4 court determines that the measure or amendment is unconstitutional, enjoin
5 it from placement on the ballot.

6 4. This amendment supplements and expands access to the courts to
7 adjudicate the constitutionality of proposed initiative measures or
8 constitutional amendments. It does not repeal, limit or preempt any other
9 express or implied claim, cause of action or remedy that the legislature or
10 the courts have provided or may provide in the future.

11 5. This amendment does not preclude, limit or abrogate any claim,
12 cause of action or remedy provided or authorized by law or in equity to
13 challenge the validity or legal sufficiency of an initiative measure,
14 referendum or constitutional amendment or any petition filed in support of
15 any of the foregoing.

16 2. The Secretary of State shall submit this proposition to the voters
17 at the next general election as provided by article XXI, Constitution of
18 Arizona.

PASSED BY THE HOUSE JUNE 12, 2024.

PASSED BY THE SENATE MARCH 11, 2024.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 13, 2024.