

REFERENCE TITLE: ballot measure amendments

State of Arizona
House of Representatives
Fifty-fifth Legislature
Second Regular Session
2022

HB 2092

Introduced by
Representatives Salman: Cano, Dalessandro, Hernandez M, Senators Mendez,
Terán

AN ACT

REPEALING SECTIONS 19-102.01 AND 19-111.01, ARIZONA REVISED STATUTES;
AMENDING TITLE 19, CHAPTER 1, ARTICLE 2, ARIZONA REVISED STATUTES, BY
ADDING A NEW SECTION 19-111.01; AMENDING SECTIONS 19-118 AND 19-125,
ARIZONA REVISED STATUTES; RELATING TO INITIATIVE AND REFERENDUM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Repeal

3 Sections 19-102.01 and 19-111.01, Arizona Revised Statutes, are
4 repealed.

5 Sec. 2. Title 19, chapter 1, article 2, Arizona Revised Statutes,
6 is amended by adding a new section 19-111.01, to read:

7 19-111.01. Approval of description; attorney general;
8 challenge

9 AT ANY TIME BEFORE A PERSON OR ORGANIZATION SUBMITS AN APPLICATION
10 FOR INITIATIVE PETITION OR REFERENDUM PETITION, A POLITICAL COMMITTEE THAT
11 INTENDS TO FILE THAT APPLICATION MAY SUBMIT THE PROPOSED DESCRIPTION OF
12 THE PRINCIPAL PROVISIONS OF THE MEASURE PRESCRIBED BY SECTION 19-101 OR
13 19-102 TO THE ATTORNEY GENERAL FOR A DETERMINATION OF WHETHER THE
14 DESCRIPTION IS LAWFUL AND SUFFICIENT. WITHIN TEN DAYS AFTER SUBMITTAL TO
15 THE ATTORNEY GENERAL, THE ATTORNEY GENERAL SHALL APPROVE OR REJECT THE
16 DESCRIPTION AND, IF REJECTED, SHALL STATE THE REASONS FOR THE REJECTION.
17 IF APPROVED, ANY CHALLENGE TO THE DESCRIPTION SHALL BE FILED IN THE
18 SUPERIOR COURT WITHIN TEN DAYS AFTER THE ATTORNEY GENERAL'S APPROVAL.

19 Sec. 3. Section 19-118, Arizona Revised Statutes, is amended to
20 read:

21 19-118. Registered circulators; requirements; violation;
22 classification; definition

23 A. For statewide initiative and referendum measures only, all
24 circulators who are not residents of this state and all paid circulators
25 must register as circulators with the secretary of state before
26 circulating petitions pursuant to this title. The committee that is
27 circulating the petition shall collect and submit the completed
28 registration applications to the secretary of state. The secretary of
29 state shall establish in the instructions and procedures manual issued
30 pursuant to section 16-452 a procedure for registering circulators,
31 including circulator registration applications, and shall publish on a
32 website maintained by the secretary of state all information regarding
33 circulators that is required pursuant to this section. The secretary of
34 state shall disqualify all signatures collected by a circulator who fails
35 to register pursuant to this subsection as provided for in section
36 19-121.01, subsection A.

37 B. The circulator registration application required by subsection A
38 of this section shall require the following:

39 1. The circulator's full name, residence address, telephone number
40 and email address.

41 2. The initiative or referendum petition on which the circulator
42 will gather signatures.

43 3. A statement that the circulator consents to the jurisdiction of
44 the courts of this state in resolving any disputes concerning the
45 circulation of petitions by that circulator.

1 4. The address of the committee in this state for which the
2 circulator is gathering signatures and at which the circulator will accept
3 service of process related to disputes concerning circulation of that
4 circulator's petitions. Service of process is effected under this section
5 by delivering a copy of the subpoena to that person individually, by
6 leaving a copy of the subpoena with a person of suitable age or by mailing
7 a copy of the subpoena to the committee by certified mail to the address
8 provided.

9 5. An affidavit from the registered circulator that is signed by
10 the circulator before a notary public and that includes the following
11 declaration:

12 I, _____ (print name) _____, under penalty of a class 1
13 misdemeanor, acknowledge that I am eligible to register as a
14 circulator in the state of Arizona, that all of the
15 information provided is correct to the best of my knowledge
16 and that I have read and understand Arizona election laws
17 applicable to the collection of signatures for a statewide
18 initiative or referendum.

19 C. Within five business days after submission and review of a
20 complete and correct circulator registration application that complies
21 with this section, the secretary of state shall register and assign a
22 circulator registration number to the circulator.

23 D. A person may not register as a circulator pursuant to this
24 section if the person:

25 1. Has had a civil or criminal penalty imposed for a violation of
26 title 16 or this title within the immediately preceding five years.

27 2. Has been convicted of treason or a felony and has not been
28 restored to civil rights as described in section 16-101, subsection A,
29 paragraph 5.

30 3. Has been convicted of any criminal offense involving fraud,
31 forgery or identity theft.

32 E. If a registered circulator is properly served with a subpoena to
33 provide evidence in an action regarding circulation of petitions and fails
34 to appear or produce documents as provided for in the subpoena, ~~and~~ A
35 COURT MAY ENFORCE THE SUBPOENA AGAINST THE CIRCULATOR AS OTHERWISE
36 PROVIDED BY LAW. ON PRESENTATION OF INDEPENDENT SUFFICIENT EVIDENCE THAT
37 THE CIRCULATOR IS INELIGIBLE TO CIRCULATE PETITIONS OR ENGAGED IN FRAUD
38 WITH RESPECT TO SOME OR ALL OF THE SIGNATURES OBTAINED, THE COURT MAY
39 ORDER THAT THOSE signatures collected by that circulator are ~~deemed~~
40 invalid. The party serving the subpoena may request an order from the
41 court directing the secretary of state to remove any signatures collected
42 by the circulator ~~as~~ ON THE GROUNDS provided for in section 19-121.01,
43 subsection A.

1 F. Any person may challenge the lawful registration of circulators
2 in the superior court of the county in which the circulator is registered.
3 A challenge may not be commenced more than ten business days after the
4 date that the secretary of state's office has received, processed and made
5 available all final petition sheets individually numbered. The person
6 challenging signatures may amend that complaint after the secretary of
7 state has removed signatures and signature sheets as prescribed in section
8 19-121.01. An action pursuant to this section shall be advanced on the
9 calendar and decided by the court as soon as possible. Either party may
10 appeal to the supreme court within five calendar days after entry of
11 judgment. The prevailing party in an action to challenge the registration
12 of a circulator under this section is entitled to reasonable attorney
13 fees.

14 G. The removal or disqualification of any one or more circulators
15 does not invalidate the random sample of signatures made pursuant to
16 section 19-121.01, and the secretary of state shall not be required to
17 conduct any additional random sampling of signatures.

18 H. A person who knowingly omits or misrepresents information or
19 provides false information on a circulator registration application or who
20 registers in violation of this section is guilty of a class 1 misdemeanor.

21 I. For the purposes of this title, "paid circulator":

22 1. Means a natural person who receives monetary or other
23 compensation for obtaining signatures on a statewide initiative or
24 referendum petition or for circulating statewide initiative or referendum
25 petitions for signatures.

26 2. Does not include a paid employee of any political committee
27 organized pursuant to title 16, chapter 6, unless that employee has or
28 will obtain two hundred or more signatures on an initiative, referendum or
29 recall petition in an election cycle.

30 Sec. 4. Section 19-125, Arizona Revised Statutes, is amended to
31 read:

32 19-125. Form of ballot

33 A. The secretary of state, at the time the secretary of state
34 transmits to the clerks of the boards of supervisors a certified copy of
35 the name of each candidate for public office, shall transmit to each clerk
36 a certified copy of the official title, the descriptive title and the
37 number of each measure and proposed amendment to the constitution to be
38 voted on at the ensuing regular general election.

39 B. Proposed constitutional amendments shall be numbered
40 consecutively beginning with the number one hundred, proposed initiative
41 measures shall be numbered consecutively beginning with the number two
42 hundred, measures submitted under the referendum shall be numbered
43 consecutively beginning with the number three hundred, and county and
44 local issues shall be numbered consecutively beginning with the number
45 four hundred. Numbering shall be consecutive based on the order in which

1 the initiative or referendum petitions are filed with the secretary of
2 state. Individual numbering shall continue from the last number used in
3 the previous election and shall not be repeated until all one hundred
4 numbers in that series have been used. Proposed constitutional amendments
5 shall be placed by themselves at the head of the ballot column, followed
6 by initiated and referred measures in that order. The number assigned to
7 the measure by the secretary of state constitutes the official title of
8 the measure and shall be used for identification of the measure by the
9 state and the county in all subsequent official election materials,
10 including the publicity pamphlet.

11 C. The officer in charge of elections shall print the official
12 title and the descriptive title of each measure on the official ballot in
13 the order presented to him by the secretary of state unless otherwise
14 provided by law. The number of the measure shall be in reverse type and
15 at least twelve point type. A proposed constitutional amendment shall be
16 designated "proposed amendment to the constitution by the legislature", or
17 "proposed amendment to the constitution by the initiative", as the case
18 may be. A measure referred by the legislature shall be designated
19 "referred to the people by the legislature", a measure referred by
20 petition shall be designated "referendum ordered by petition of the
21 people" and a measure proposed by initiative petition shall be designated
22 "proposed by initiative petition".

23 D. A descriptive title shall be printed on the official ballot
24 immediately below the number of the measure and the official title of each
25 measure. The descriptive title shall contain ~~a~~ AN IMPARTIAL summary of
26 the principal provisions of the measure, not to exceed fifty words, which
27 shall be prepared by the secretary of state and approved by the attorney
28 general. ~~and~~ AT LEAST THIRTY DAYS BEFORE THE EARLIEST DATE THAT THE
29 OFFICIAL BALLOTS AND PUBLICITY PAMPHLET ARE SENT TO BE PRINTED, THE
30 SECRETARY OF STATE AND THE ATTORNEY GENERAL SHALL PROMINENTLY POST THE
31 APPROVED IMPARTIAL SUMMARY ON THEIR RESPECTIVE WEBSITES, AND THE SECRETARY
32 OF STATE SHALL PROVIDE A COPY OF THE IMPARTIAL SUMMARY TO THE COMMITTEE
33 THAT FILED THE BALLOT MEASURE, IF ANY. THE IMPARTIAL SUMMARY shall include
34 the following or the ballot shall comply with subsection F of this
35 section:

36 A "yes" vote shall have the effect of _____.

37 A "no" vote shall have the effect of _____.

38 The blank spaces shall be filled with a brief phrase, approved by the
39 attorney general, stating the essential change in the existing law should
40 the measure receive a majority of votes cast in that particular manner.
41 In the case of a referendum, a "yes" vote shall have the effect of
42 approving the legislative enactment that is being referred. The "yes" and
43 "no" language shall be posted on the secretary of state's website after
44 being approved by the attorney general and before the date on which the
45 official ballots and the publicity pamphlet are sent to be printed. Below

1 the statement of effect of a "yes" vote and effect of a "no" vote there
2 shall be printed the corresponding words "yes" and "no" and a place for
3 the voter to put a mark as defined in section 16-400 indicating the
4 voter's preference.

5 E. In addition to the information prescribed by subsection D of
6 this section, for state statutory measures, the officer in charge of
7 elections shall print on the official ballot immediately before the first
8 proposed state statutory initiative measure and immediately before the
9 first proposed state statutory measure submitted under the referendum the
10 following statement: "Notice: Pursuant to proposition 105 (1998), these
11 measures cannot be changed in the future if approved on the ballot except
12 by a three-fourths vote of the members of each house of the legislature
13 and if the change furthers the purpose of the original ballot measure, by
14 an initiative petition or by referring the change to the ballot."

15 F. Instead of printing the official and descriptive titles or the
16 full text of each measure or question on the official ballot, the officer
17 in charge of elections may print phrases on the official ballot that
18 contain all of the following:

19 1. The number of the measure in reverse type and at least twelve
20 point type.

21 2. The designation of the measure as prescribed by subsection C of
22 this section or as a question, proposition or charter amendment, followed
23 by the words "relating to..." and inserting the subject.

24 3. Either the statement prescribed by subsection D of this section
25 that describes the effects of a "yes" vote and a "no" vote or, for other
26 measures, the text of the question or proposition.

27 4. The words "yes" and "no" or "for" and "against", as may be
28 appropriate and a place for the voter to put a mark.

29 5. For state statutory measures, immediately before the first
30 proposed state statutory initiative measure and immediately before the
31 first proposed state statutory measure submitted under the referendum the
32 following statement: "Notice: Pursuant to proposition 105 (1998), these
33 measures cannot be changed in the future if approved on the ballot except
34 by a three-fourths vote of the members of each house of the legislature
35 and if the change furthers the purpose of the original ballot measure, by
36 an initiative petition or by referring the change to the ballot."

37 G. For any ballot printed pursuant to subsection F of this section,
38 the instructions on the official ballot shall direct the voter to the full
39 text of the official and descriptive titles and the questions and
40 propositions as printed on the sample ballot and posted in the polling
41 place.

1 Sec. 5. Legislative intent; right of initiative and referendum
2 After many years of restricting the people's right to legislate by
3 initiative and referendum, it is the intent of the legislature by this act
4 to restore some of the rights of the people regarding their reserved
5 powers to legislate, which are guaranteed by article IV, part 1, section
6 1, Constitution of Arizona.