

REFERENCE TITLE: legislative referendum; 2/3 vote

State of Arizona  
House of Representatives  
Forty-eighth Legislature  
Second Regular Session  
2008

# HCR 2035

Introduced by  
Representative Gallardo

A CONCURRENT RESOLUTION

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

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it resolved by the House of Representatives of the State of Arizona, the  
2 Senate 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 and  
12 to enact or reject such laws and amendments at the polls,  
13 independently of the legislature; and they also reserve, for use  
14 at their own option, the power to approve or reject at the polls  
15 any act, or item, section, or part of any act, of the  
16 legislature.

17 (2) Initiative power. The first of these reserved powers  
18 is the initiative. Under this power ten per ~~centum~~ CENT of the  
19 qualified electors shall have the right to propose any measure,  
20 and fifteen per ~~centum~~ CENT 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 ~~BY THE AFFIRMATIVE VOTE OF TWO-~~  
25 ~~THIRDS OF THE MEMBERS OF EACH HOUSE OF THE LEGISLATURE~~, or five  
26 per ~~centum~~ CENT of the qualified electors, may order the  
27 submission to the people at the polls of any measure, or item,  
28 section, or part of any measure, enacted by the legislature,  
29 except laws immediately necessary for the preservation of the  
30 public peace, health, or safety, or for the support and  
31 maintenance of the departments of the state government and state  
32 institutions; but to allow opportunity for referendum petitions,  
33 no act passed by the legislature shall be operative for ninety  
34 days after the close of the session of the legislature enacting  
35 such measure, except such as require earlier operation to  
36 preserve the public peace, health, or safety, or to provide  
37 appropriations for the support and maintenance of the  
38 departments of the state and of state institutions; provided,  
39 that no such emergency measure shall be considered passed by the  
40 legislature unless it shall state in a separate section why it  
41 is necessary that it shall become immediately operative, and  
42 shall be approved by the affirmative votes of two-thirds of the  
43 members elected to each house of the legislature, taken by roll  
44 call of ayes and nays, and also approved by the governor; and  
45 should such measure be vetoed by the governor, it shall not

1 become a law unless it shall be approved by the votes of three-  
2 fourths of the members elected to each house of the legislature,  
3 taken by roll call of ayes and nays.

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

17 (5) Effective date of initiative and referendum measures.  
18 Any measure or amendment to the constitution proposed under the  
19 initiative, and any measure to which the referendum is applied,  
20 shall be referred to a vote of the qualified electors, and shall  
21 become law when approved by a majority of the votes cast thereon  
22 and upon proclamation of the governor, and not otherwise.

23 (6) (A) Veto of initiative or referendum. The veto  
24 power of the governor shall not extend to an initiative measure  
25 approved by a majority of the votes cast thereon or to a  
26 referendum measure decided by a majority of the votes cast  
27 thereon.

28 ~~(6)~~ (B) Legislature's power to repeal initiative or  
29 referendum. The legislature shall not have the power to repeal  
30 an initiative measure approved by a majority of the votes cast  
31 thereon or to repeal a referendum measure decided by a majority  
32 of the votes cast thereon.

33 ~~(6)~~ (C) Legislature's power to amend initiative or  
34 referendum. The legislature shall not have the power to amend  
35 an initiative measure approved by a majority of the votes cast  
36 thereon, or to amend a referendum measure decided by a majority  
37 of the votes cast thereon, unless the amending legislation  
38 furthers the purposes of such measure and at least three-fourths  
39 of the members of each house of the legislature, by a roll call  
40 of ayes and nays, vote to amend such measure.

41 ~~(6)~~ (D) Legislature's power to appropriate or divert  
42 funds created by initiative or referendum. The legislature  
43 shall not have the power to appropriate or divert funds created  
44 or allocated to a specific purpose by an initiative measure  
45 approved by a majority of the votes cast thereon, or by a

1 referendum measure decided by a majority of the votes cast  
2 thereon, unless the appropriation or diversion of funds furthers  
3 the purposes of such measure and at least three-fourths of the  
4 members of each house of the legislature, by a roll call of ayes  
5 and nays, vote to appropriate or divert such funds.

6 (7) Number of qualified electors. The whole number of  
7 votes cast for all candidates for governor at the general  
8 election last preceding the filing of any initiative or  
9 referendum petition on a state or county measure shall be the  
10 basis on which the number of qualified electors required to sign  
11 such petition shall be computed.

12 (8) Local, city, town or county matters. The powers of  
13 the initiative and the referendum are hereby further reserved to  
14 the qualified electors of every incorporated city, town, and  
15 county as to all local, city, town, or county matters on which  
16 such incorporated cities, towns, and counties are or shall be  
17 empowered by general laws to legislate. Such incorporated  
18 cities, towns, and counties may prescribe the manner of  
19 exercising said powers within the restrictions of general laws.  
20 Under the power of the initiative fifteen per centum of the  
21 qualified electors may propose measures on such local, city,  
22 town, or county matters, and ten per ~~centum~~ CENT of the electors  
23 may propose the referendum on legislation enacted within and by  
24 such city, town, or county. Until provided by general law, said  
25 cities and towns may prescribe the basis on which said  
26 percentages shall be computed.

27 (9) Form and contents of initiative and of referendum  
28 petitions; verification. Every initiative or referendum  
29 petition shall be addressed to the secretary of state in the  
30 case of petitions for or on state measures, and to the clerk of  
31 the board of supervisors, city clerk, or corresponding officer  
32 in the case of petitions for or on county, city, or town  
33 measures; and shall contain the declaration of each petitioner,  
34 for himself, that he is a qualified elector of the state (and in  
35 the case of petitions for or on city, town, or county measures,  
36 of the city, town, or county affected), his post office address,  
37 the street and number, if any, of his residence, and the date on  
38 which he signed such petition. Each sheet containing  
39 petitioners' signatures shall be attached to a full and correct  
40 copy of the title and text of the measure so proposed to be  
41 initiated or referred to the people, and every sheet of every  
42 such petition containing signatures shall be verified by the  
43 affidavit of the person who circulated said sheet or petition,  
44 setting forth that each of the names on said sheet was signed in  
45 the presence of the affiant and that in the belief of the

1           affiant each signer was a qualified elector of the state, or in  
2           the case of a city, town, or county measure, of the city, town,  
3           or county affected by the measure so proposed to be initiated or  
4           referred to the people.

5           (10) Official ballot. When any initiative or referendum  
6           petition or any measure referred to the people by the  
7           legislature shall be filed, in accordance with this section,  
8           with the secretary of state, he shall cause to be printed on the  
9           official ballot at the next regular general election the title  
10          and number of said measure, together with the words "yes" and  
11          "no" in such manner that the electors may express at the polls  
12          their approval or disapproval of the measure.

13          (11) Publication of measures. The text of all measures to  
14          be submitted shall be published as proposed amendments to the  
15          constitution are published, and in submitting such measures and  
16          proposed amendments the secretary of state and all other  
17          officers shall be guided by the general law until legislation  
18          shall be especially provided therefor.

19          (12) Conflicting measures or constitutional amendments. If  
20          two or more conflicting measures or amendments to the  
21          constitution shall be approved by the people at the same  
22          election, the measure or amendment receiving the greatest number  
23          of affirmative votes shall prevail in all particulars as to  
24          which there is conflict.

25          (13) Canvass of votes; proclamation. It shall be the duty  
26          of the secretary of state, in the presence of the governor and  
27          the chief justice of the supreme court, to canvass the votes for  
28          and against each such measure or proposed amendment to the  
29          constitution within thirty days after the election, and upon the  
30          completion of the canvass the governor shall forthwith issue a  
31          proclamation, giving the whole number of votes cast for and  
32          against each measure or proposed amendment, and declaring such  
33          measures or amendments as are approved by a majority of those  
34          voting thereon to be law.

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

1           (15) Legislature's right to refer measure to the people.  
2           Nothing in this section shall be construed to deprive or limit  
3           the legislature of the right to order the submission to the  
4           people at the polls of any measure, item, section, or part of  
5           any measure.

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

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