

PROPOSITION 104
OFFICIAL TITLE

HOUSE CONCURRENT RESOLUTION 2009

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

TEXT OF PROPOSED AMENDMENT

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

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

1. Legislative authority; initiative and referendum

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

(2) Initiative power. The first of these reserved powers is the initiative. Under this power ten per ~~centum~~ CENT of the qualified electors shall have the right to propose any measure, and fifteen per ~~centum~~ CENT shall have the right to propose any amendment to the constitution.

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

(4) Initiative and referendum petitions; filing. All petitions submitted under the power of the initiative shall be known as initiative petitions, and shall be filed with the secretary of state not less than ~~four~~ SEVEN months preceding the date of the election at which the measures so proposed are to be voted upon. AN INITIATIVE PETITION MAY BE CIRCULATED FOR SIGNATURES FOR UP TO TWENTY-SEVEN MONTHS BEFORE THE GENERAL ELECTION AT WHICH THE MEASURE IS TO BE INCLUDED ON THE BALLOT. All petitions submitted under the power of the referendum shall be known

as referendum petitions, and shall be filed with the secretary of state not more than ninety days after the final adjournment of the session of the legislature which shall have passed the measure to which the referendum is applied. The filing of a referendum petition against any item, section, or part of any measure shall not prevent the remainder of such measure from becoming operative.

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

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

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

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

~~(6)~~ (D) Legislature's power to appropriate or divert funds created by initiative or referendum. The legislature shall not have the power to appropriate or divert funds created or allocated to a specific purpose by an initiative measure approved by a majority of the votes cast thereon, or by a referendum measure decided by a majority of the votes cast thereon, unless the appropriation or diversion of funds furthers the purposes of such measure and at least three-fourths of the members of each house of the legislature, by a roll call of ayes and nays, vote to appropriate or divert such funds.

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

(8) Local, city, town or county matters. The powers of the initiative and the referendum are hereby further reserved to the qualified electors of every incorporated city, town, and county as to all local, city, town, or county matters on which such incorporated cities, towns, and counties are or shall be empowered by general laws to legislate. Such incorporated cities, towns, and counties may prescribe the manner of exercising said powers within the restrictions of general laws. Under the power of the initiative fifteen per ~~centum~~ CENT of



the qualified electors may propose measures on such local, city, town, or county matters, and ten per centum CENT of the electors may propose the referendum on legislation enacted within and by such city, town, or county. Until provided by general law, said cities and towns may prescribe the basis on which said percentages shall be computed.

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

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

(11) Publication of measures. The text of all measures to be submitted shall be published as proposed amendments to the constitution are published, and in submitting such measures and proposed amendments the secretary of state and all other

officers shall be guided by the general law until legislation shall be especially provided therefor.

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

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

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

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

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

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

ANALYSIS BY LEGISLATIVE COUNCIL

The Arizona Constitution requires that an initiative measure must be filed at least 4 months before the election at which it will be voted on. Under an existing statute, an initiative measure may be circulated up to 24 months before the election at which the measure will be voted on.

Proposition 104 would amend the Constitution:

- to require that an initiative measure must be filed at least 7 months before the election at which it will be voted on, and
- to allow an initiative measure to be circulated up to 27 months before the election at which the measure will be voted on.

ARGUMENTS "FOR" PROPOSITION 104

The Arizona Chamber of Commerce urges a "yes" vote on Proposition 104 to promote voter education and good government.

The Arizona Constitution gives the people of Arizona enormous power through the initiative and referendum process. In fact, once the people have decided an issue at the ballot, the governor and state legislature can do nothing legally to undermine the purposes of the people's will.

Proposition 104 is a pro-voter way to give the people greater trust and confidence in the initiative and referendum system. By allowing voters three additional months to consider the merits of an initiative, this common-sense rule change will promote better government and a more informed citizenry. This is accomplished without shortchanging initiative-petition circulators' 27-month window to collect signatures.

With so many complex issues being sent to the ballot these days, voters deserve more time to consider all the ramifications of the decisions they are asked to make. Voters must have every opportunity to learn all sides of an argument and Proposition 104's additional 90-days of voter-education will help achieve this goal. That is why the Arizona Chamber of

Arguments “For” Proposition 104

Commerce urges voters to vote “yes” on Proposition 104.

C.A. Howlett, Chairman, Board of Directors, Arizona Chamber of Commerce, Scottsdale

James J. Apperson, President & CEO, Arizona Chamber of Commerce, Scottsdale

Paid for by “Arizona Chamber of Commerce”

As citizens of Arizona, there are few responsibilities more important than our authority to create and make changes to Arizona’s laws through the initiative process. Changes to laws governing public finance & taxation can have tremendous and long-term impacts on citizens and taxpayers and should not be taken lightly.

When citizens are asked to consider, debate, and vote on a proposed constitutional or statutory change, adequate time should be provided to ensure that voters have an opportunity to understand and scrutinize ballot measures and their impact. This becomes especially important in light of the obstacles and restrictions Proposition 105 enacted in 1998, making it very difficult to change voter-approved measures — even to fix flawed or unworkable provisions or to remedy unintended consequences.

Current law provides a minimum of only four months for initiatives to be filed before the election takes place to decide the question. Proposition 104 will extend that filing timeframe to no less than seven months, giving Arizona’s citizens an additional three months to weigh the proposal before casting their votes.

In order not to decrease the amount of time available for citizens to circulate and qualify petitions for the ballot, Proposition 104 makes a conforming change to extend that time 3 months.

Proposition 104 is a reasonable measure that will increase the allowed time for the due diligence all voters should exercise on matters that can have such a significant impact on government institutions and the demands those institutions make on taxpayers.

WE URGE YOU TO VOTE YES ON PROPOSITION 104!

Kevin R. Kinsall, Chairman, Arizona Tax Research Association, Phoenix

Kevin J. McCarthy, President, Arizona Tax Research Association, Gilbert

Paid for by “Arizona Tax Research Association”

ARGUMENTS “AGAINST” PROPOSITION 104

The League of Women Voters of Arizona believes in the citizens right to initiative guaranteed in the Arizona constitution. We oppose this referendum put on the ballot by the Legislature that would amend the constitution and restrict that right.

This referendum requires that initiative petitions be filed with the Secretary of State seven months before the General Election. Currently, citizens have until July, four months prior to the Election, to submit signatures for an initiative. The additional time is often crucial for citizen-run initiatives to collect the required signatures. The earlier date gives greater weight to wealthy special interests and their campaigns. In addition, it prevents any initiative on the ballot that is a response to the legislative session, which would generally end after this proposed April deadline for filing an initiative.

The provision that signatures can be submitted 27 months prior to a General Election is guaranteed to create confusion. An initiative could be submitted in October of one year and not voted on for another 25 months.

We urge a “No” vote.

Gini McGirr, President, League of Women Voters of Arizona, Tucson

Bonnie Saunders, 1st Vice President, League of Women Voters of Arizona, Sun City

Paid for by “League of Women Voters of Arizona”

Given 2 years and 3 months, it’s unlikely that any initiative/referendum would ever NOT get on the ballot. Allowing protracted periods for special-interest groups to dupe the public into supporting their schemes is a recipe for financial disaster. The fact is, the initiative/referendum process is one that weakens what was designed to be our republican form of government, and it should be done away with altogether. Legal checks and balances are not available in the referendum and initiative process.

J P Melchionne, Secretary, Yuma Chapter, People for the USA, Yuma

Dale Marler, Vice President, Yuma Chapter, People for the USA, Yuma

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VOTE NO ON PROPOSITION 104

The Arizona Advocacy Network Foundation (AzAN) is a coalition of nonprofit public interest organizations dedicated to increasing citizen participation in the political process. The ballot proposition that changes the filing deadline for citizen initiatives from four months before the election (July) to seven months (April) will radically increase the cost and difficulty of qualifying an initiative for the ballot leading to fewer initiatives and decreased citizen involvement.

The purpose of this measure is supposed to be to give the county recorders enough time to verify the petition signatures before the election, but it actually serves the agenda of members of the legislature who want to reduce or eliminate the citizens’ ability to make law through the initiative process. Some legislators and special interest groups don’t like the laws the people pass and want to destroy the process.

Spelling, grammar, and punctuation were reproduced as submitted in the “for” and “against” arguments.

GENERAL ELECTION NOVEMBER 2, 2004

If the true purpose is to ease the workload on the county recorders, it can be better accomplished through other means such as reducing the number of petition signatures required, reducing the percentage of signatures to be verified, allowing petitions to be filed as the signatures are collected instead of requiring they all be dumped into the system at one time, etc. Instead, this proposition eliminates the three months when most signatures are gathered, replacing them with a useless three months before the prior election. Talk about voter confusion; try collecting petition signatures for something that won't be on the ballot for more than two years.

This will destroy the initiative process that's been in place for 92 years; leave out ordinary citizens; and insure that only initiatives backed by big money, out-of-state special interests can be on the ballot. AzAN asks that you protect your access to the ballot and **vote No on Proposition 104.**

*Joel Foster, President, Arizona Advocacy Network
Foundation, Phoenix*

*Eric Ehst, Treasurer, Arizona Advocacy Network
Foundation, Phoenix*

Paid for by “Arizona Advocacy Network Foundation”

**Protect Our Constitutional Rights.
Please Vote NO On Proposition 104!**

Tell the Arizona Legislature to stop undercutting citizens' initiative rights. Proposition 104 moves the signature date for filing an initiative from four months prior to the election back to seven months prior to the election. This means the signatures must be filed prior to the end of most legislative sessions and would give the legislature ample opportunity to tinker with and undercut citizen initiatives.

While the measure allows signature collection to begin 27 months prior to an election —ostensibly to give people the same amount of time to gather signatures — it is a meaningless gesture. Why? Because people working on citizen initiatives will want to see what passes in the general election before moving forward with a new measure. But that means less time for gathering signatures. This will help wealthy interests who can afford to rely entirely on paid professionals to gather signatures in a short period of time. Ordinary citizens and grassroots organizations struggle to gather signatures to put measures on the ballot. They normally use volunteer signature gatherers for at least a portion of the signatures they submit and that takes more time. Grassroots organizations certainly cannot afford the \$3 or \$4 per signature that is the going rate with some measures. This proposition, therefore, puts the initiative process further in the hands of the wealthy special interests.

Voters have rejected previous Legislative attempts to place restrictions on citizen initiatives. In 2000, the Legislature referred a proposition that required a two-thirds vote on wildlife measures. The voters rejected that proposal overwhelmingly.

Please reject this one as well. Vote no on Proposition 104.

*Kenneth P. Langton, Chairperson, Sierra Club, Grand
Canyon Chapter, Tucson*

*Don Steuter, Conservation Chair, Sierra Club, Grand Canyon
Chapter, Phoenix*

Paid for by “Sierra Club, Grand Canyon Chapter, ”

The Arizona constitution provides two separate and equal ways of creating state law, by legislative vote and concurrence of the governor, or by vote of the people through the process of initiative and referendum. The legislature has often refused to address important issues, especially those that affect women, minorities, or working people. Citizen initiative, the process of collecting petition signatures to place a proposed law on the ballot, has been used to resolve many important issues, starting in 1912 with the first Arizona initiative, which granted women the right to vote.

Proposition 104, which changes the filing date for initiatives from four months before the election (July) to seven months before (April), purports to fix a problem: that the county recorders don't have enough time to validate all of the petition signatures before the election. It is actually part of a broader agenda by members of the legislature to restrict the citizens' ability to make law through the initiative process.

The number of initiatives on the ballot is already decreasing due to the ever-increasing number of petition signatures needed (currently 183,917 for a constitutional amendment). This proposition would eliminate the most productive three months of signature gathering (closest to the election) and make it nearly impossible for any initiative to qualify for the ballot. No initiative has ever qualified by April. Under this requirement there would be no initiatives on the ballot this year.

If this measure passes only initiatives that have big-money (\$500,000 or more) backing to employ an army of professional signature gatherers will make the ballot. Regular citizens will be excluded from the process.

Proposition 104 may ease the recorders' workload, but it will kill the citizen initiative process. The Arizona National Organization for Women (NOW) urges you to **vote No on 104.**

*Karen Van Hooft, State Coordinator, Policy/Spokesperson,
Arizona NOW, Scottsdale*

*Eric Ehst, State Coordinator, Political Action, Arizona NOW,
Phoenix*

Paid for by “Arizona NOW”

Don't Place the Initiative Process in the Hands of Big Money Interests

The Arizona League of Conservation Voters Education Fund opposes Proposition 104, which would ultimately result in placing the initiative process of Arizona into the hands of wealthy interests and limit the ability of grassroots, public interest organizations to fully participate in the process.

Arguments "Against" Proposition 104

Prop 104 moves up the filing deadline for signatures to place an initiative petition on the ballot by four months – from July before the General Election to April. This would give citizens and volunteer groups less time to gather the required signatures and greatly increases the expense of putting an initiative measure on the ballot. It would give outside groups with deep pockets a substantial advantage since they would be able to afford paid signature gatherers to get their issues on the ballot.

The measure attempts to balance the shift in filing deadline by extending the signature gathering time back by a few months. However, this solution is just plain unworkable. Citizens would be forced to begin collecting signatures before the prior General Election would take place. Voter confusion about when a measure would show up on the ballot would occur, and the number of signatures required to place the initiative on the next election cycle ballot would still be unknown when the signature gathering effort begins. This causes unnecessary logistical problems.

Prop 104 is not needed and will just increase the influence of big money special interests while putting grassroots citizens' efforts at a disadvantage. Vote no on Prop 104.

Jeff Williamson, President, Arizona League of
Conservation Voters Education Fund, Phoenix

Carolyn Campbell, Secretary, Arizona League of
Conservation Voters Education Fund, Tucson

Paid for by "Arizona League of Conservation Voters Education Fund"

VOTE "NO" ON PROPOSITION 104

THE LEGISLATURE'S PROPOSITION 104 STEALS YOUR RIGHTS.

The citizens of the State of Arizona reserved the right to refer their own laws to the ballot. The Legislature and the rest of government hate it that the people have the ultimate power over them. They constantly try to chip away and limit that power. For more information see www.theLfactor.org.

This is billed as a Proposition to clean up language, but buried in the grammatical changes is this section:

All petitions submitted under the power of the initiative shall be known as initiative petitions, and shall be filed with the secretary of state not less than ~~four~~ SEVEN months preceding the date of the election at which the measures so proposed are to be voted upon. AN INITIATIVE PETITION MAY BE CIRCULATED FOR SIGNATURES FOR UP TO TWENTY-SEVEN MONTHS BEFORE THE GENERAL ELECTION AT WHICH THE MEASURE IS TO BE INCLUDED ON THE BALLOT.

This will mean that ballot propositions will have to be written, the signature gatherers organized and the government required committees formed much sooner, and the signatures submitted within SEVEN months prior to an election. Why? The citizens initiative process seems to **work just fine** now with a four month deadline. This is well before ballots are printed. And allows plenty of time for signatures to be verified. Only two citizens initiatives were submitted this year, so it is not like there is a glut.

All this does is take away the media attention from handing in your signatures near the end of the already difficult process, and thereby reduce the chances of the citizen's wishes interfering with the Legislature's ambitions.

Preserve YOUR rights, because you won't get them back once you have relinquished them.

VOTE "NO" ON PROPOSITION 104

Powell Gammill, www.GammillForCongress.com, Libertarian Candidate, U.S. Representative, District 2 (AZ), Phoenix

Vote NO.

Our coalition of organizations has gone to the ballot twice successfully, collecting signatures and making our case to the public to gain your support and trust. We did it on a fraction of what other ballot measures spent, because we had tremendous grassroots support. Most importantly we succeeded because our goal was to get something that the people already supported, but that the politicians were not willing to prioritize: healthcare access for EVERYBODY living in poverty, not just for the poorest of the poor.

Our ballot measures required us to get hundreds of volunteers to stand in the hot sun for tens of thousands of hours to gather hundreds of thousands of signatures. By contrast, the few dozen lawmakers who put this on the ballot sat in their air-conditioned office and pushed their little vote buttons.

We know something about ballot measure campaigns, and we know that this proposal is a bad idea. The legislature, which, too often, doesn't do its job at all, and even then almost never does it on time, is trying to impose tighter time limits on what the citizens can do? Because the legislators haven't appropriated enough money to the Secretary of State's office and the Counties to pay for adequate staff to validate signatures? Hello?

Vote NO to tell the legislature that to stop trying to make true grassroots efforts by citizens even harder than they already are.

Dr. Eve Shapiro, Pediatrician, Chair, Healthy Arizona Initiative, Tucson

Paid for by "Healthy Arizona Initiative"

BALLOT FORMAT

PROPOSITION 104

**PROPOSED AMENDMENT TO THE CONSTITUTION BY THE
LEGISLATURE**

OFFICIAL TITLE

HOUSE CONCURRENT RESOLUTION 2009
PROPOSING AN AMENDMENT TO THE CONSTITUTION OF
ARIZONA; AMENDING ARTICLE IV, PART 1, SECTION 1,
CONSTITUTION OF ARIZONA; RELATING TO INITIATIVE
PETITIONS.

DESCRIPTIVE TITLE

PERMITS AN INITIATIVE PETITION TO BE CIRCULATED FOR
SIGNATURES UP TO 27 MONTHS BEFORE THE GENERAL
ELECTION AND CHANGES THE DATE FOR FILING THE
PETITIONS WITH THE SECRETARY OF STATE FROM NOT
LESS THAN 4 MONTHS PRECEDING THE ELECTION TO
NOT LESS THAN 7 MONTHS.

PROPOSITION 104

A "yes" vote shall have the effect of allowing an initiative petition to be circulated for signatures up to 27 months before the general election and requires the petitions to be filed with the secretary of state at least 7 months prior to the election at which it will be voted on.	YES <input type="checkbox"/>
A "no" vote shall have the effect of retaining the current initiative circulation period of 24 months before the general election and filing deadline of 4 months before the general election.	NO <input type="checkbox"/>