

HJR

I

Alaska State Legislature  
House of Representatives

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& SOCIAL SERVICES  
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PHONE (907) 694-7943

DURING SESSION:  
STATE CAPITOL  
JUNEAU, AK 99311  
PHONE (907) 465-3777

Representative Pete Kott

TO: State of Alaska  
Department of Law  
Office of the Attorney General  
FROM: Representative Pete Kott  
DATE: January 25, 1993  
RE: House Joint Resolution 1

HAND DELIVERED

Please find enclosed a copy of HJR1, which proposes a constitutional amendment permitting amendments to the constitution by initiative.

I am requesting an opinion from your office concerning the following issues:

1. Assuming that the Constitution is amended as proposed in HJR1, would the restrictions contained in Article XI, Section 7 apply to constitutional amendments through the initiative process?
2. Assuming that the restrictions contained in Article XI, Section 7 would apply to amendments through the initiative process, would said restrictions prevent the amendment or repeal of Article IX, Section 15 or other similar constitutional or statutory provision creating funds?
3. Assuming that the answer to issue number 2. supra, is in the affirmative, is there anything which would prevent the repeal of Article XI, Section 7 through the initiative process and then repealing Article IX, Section 15, thus accomplishing in two steps, what could not be accomplished by one? If so, is there any way of drafting HJR1 so as to prevent this from occurring?

The House State Affairs Committee is currently considering HJR1, as well as a similar resolution. Accordingly, clarification of the constitutional ramifications of the above stated issues is a matter of some urgency.

Thank you in advance for your kind assistance in this matter.

cc: House State Affairs Committee  
Representative Gail Phillips



# STATE OF ALASKA

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

February 8, 1993

The Honorable Pete Kott  
Alaska State Legislature  
House of Representatives  
State Capitol, Room 409  
Juneau, AK 99801-1182

Re: Effect of House Joint Resolution 1  
Our file no. 663-93-0287

Dear Representative Kott:

You have requested advice concerning House Joint Resolution 1, which would amend the Alaska Constitution to permit amendment of the constitution by initiative. Specifically, you have asked whether subject matter restrictions of article XI, section 7 would apply to initiated amendments to the constitution, and about the effects of the initiative on Alaska Constitution article IX, section 15, which establishes the Alaska Permanent Fund, and on other funds established by the constitution or statutes.

Alaska Constitution, article XI, section 7, prohibits use of the initiative to dedicate revenues, make or repeal appropriations, define the jurisdiction of or prescribe the rules of courts, or enact local or special legislation. If the constitution is amended as proposed in HJR 1, the subject matter restrictions will apply to initiated constitutional amendments. An initiative to amend Alaska Constitution article IX, section 15 to change the percentage or source of money received by the state that must be dedicated to the permanent fund would be prohibited by the subject matter restrictions section.

On the other hand, it is possible that amendment of the constitution to remove article IX, section 15 could be accomplished by initiative without violating the restrictions provisions. Removal of the constitutional provision for the permanent fund would not dedicate revenues; rather, it would eliminate a

WALTER J. HICKEL, GOVERNOR

PLEASE REPLY TO:

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100 CUSHMAN ST., SUITE 400  
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FAX: (907) 456-1317

P. O. BOX 110300 - STATE CAPITOL  
JUNEAU, ALASKA 99811-0300  
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constitutional dedication of funds,<sup>1</sup> and would make the permanent fund principal and future mineral royalties available for appropriation by the legislature. This probably would not constitute an appropriation.<sup>2</sup>

Furthermore, as you suggest in your letter, the restrictions section could be amended or eliminated from the constitution by an initiated amendment, thereby opening the door to all manner of initiatives that dedicate revenues and make appropriations.

In order to prevent initiation of amendments to statutory and constitutional provisions for the permanent fund and other funds, HJR 1 could be amended to include an amendment to article XI, section 7 to prohibit the use of the initiative to amend or repeal that section or any constitutional or statutory provision that creates a valid dedicated fund.

---

<sup>1</sup> A separate provision of the Alaska Constitution prohibits dedication of state revenues to special purposes. Alaska Const., art. IX, sec. 7. The permanent fund, the budget reserve fund, and those dedications of funds in effect before the constitution was ratified or that are required for participation in federal programs are exempted from this prohibition. The purpose of the dedicated funds "prohibition is to preserve control of and responsibility for state spending in the legislature and the governor." Sonneman v. Hickel, 836 P.2d 936, 938 (Alaska 1992).

<sup>2</sup> However, the Alaska Supreme Court has construed the prohibition against initiation of appropriations very broadly. See Thomas v. Bailey, 595 P.2d 1 (Alaska 1979) (establishment of a land give-away program was an "appropriation" prohibited by the restrictions clause); Alaska Conservative Political Action Comm. v. Municipality of Anchorage, 745 P.2d 936 (Alaska 1987) (initiative to require transfer of a municipal utility to a private non-profit entity would make an appropriation); McAlpine v. Univ. of Alaska, 762 P.2d 81 (Alaska 1988) (provision of an initiative that required the university to transfer property to the community college system was not prohibited, but provision that specified the amount of property that must be transferred would make an appropriation).

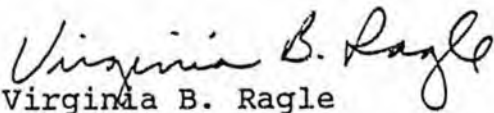
The Honorable Pete Kott  
Our file no. 663-93-0287

February 8, 1992  
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Please let us know if you need further advice in this matter.

Sincerely yours,

CHARLES E. COLE  
ATTORNEY GENERAL

By:   
Virginia B. Ragle  
Assistant Attorney General

VBR:cp

cc: Charles E. Cole, Attorney General  
Bruce Botelho, Deputy Attorney General  
Deborah Behr, Assistant Attorney General  
Kris Lethin, Office of the Governor

TESTIMONY BEFORE THE HOUSE JUDICIARY COMMITTEE (2-15-93)

HOUSE JOINT RESOLUTION 1

(PROPOSING AMENDMENTS TO THE CONSTITUTION AUTHORIZING THE INITIATIVE PROCESS TO AMEND THE CONSTITUTION IS APPROVED BY TWO-THIRDS VOTES CAST IN THE AFFIRMATIVE ON THE PROPOSED AMENDMENT)

MR. CHAIRMAN.....MEMBERS OF THE HOUSE JUDICIARY COMMITTEE.....MY NAME IS GAIL PHILLIPS.....I REPRESENT HOUSE DISTRICT 7.....

HOUSE JOINT RESOLUTION 1.....PROPOSES AMENDMENTS TO THE STATE CONSTITUTION WHICH WOULD ALLOW THE USE OF THE INITIATIVE PROCESS TO AMENDMENT OUR CONSTITUTION IF APPROVED BY 2/3 VOTES IN THE AFFIRMATIVE.....

PRESENTLY THE PEOPLE OF ALASKA CAN PROPOSE AND ENACT LAWS BY INITIATIVE.....AND.....APPROVE OR REJECT ACTS OF THE LEGISLATURE BY REFERENDUM.....

DURING THE GOVERNOR'S RECENT STATE OF STATE ADDRESS BEFORE A JOINT SESSION OF THE LEGISLATURE.....HE STATED IN PART.....'.....TO IMPROVE OUR GOVERNMENT PROCESS.....I ASK FOR YOUR SUPPORT TO ALLOW THE ALASKA PEOPLE TO AMEND THE CONSTITUTION THROUGH INITIATIVE AND REFERENDUM.....' HE CONTINUED, "SEVERAL OF THE AUTHORS OF ALASKA'S CONSTITUTIONAL CONVENTION HAVE TOLD ME THAT THIS IS THE ONE MAJOR SHORTCOMING IN THE DOCUMENT THEY WROTE. AS IT IS TODAY, SHORT OF A FULL-BLOWN CONSTITUTIONAL CONVENTION, ONLY THE LEGISLATURE.....BY A TWO-THIRDS VOTE.....CAN RECOMMEND AN AMENDMENT TO THE FOUNDATION DOCUMENT OF OUR SOCIETY.....THE PEOPLE SHOULD PARTICIPATE. THEY ARE USUALLY AHEAD OF GOVERNMENT. MANY OF YOU ARE ON RECORD IN FAVOR OF THIS MUCH NEEDED CHANGE. LET'S DO IT", HE CONCLUDED.....

TESTIMONY BEFORE THE HOUSE JUDICIARY COMMITTEE (2-15-93)

PAGE TWO  
HOUSE JOINT RESOLUTION 1  
(AMENDING CONSTITUTION BY INITIATIVE PROCESS)

I WOULD LIKE TO REPEAT.....ONLY THE LEGISLATURE.....BY 2/3 VOTE....  
CAN RECOMMEND A PROPOSED AMENDMENT TO THE CONSTITUTION.....  
THE LEGISLATURE IS REQUIRED TO HAVE 2/3 VOTES IN EACH BODY TO PASS  
ANY JOINT RESOLUTION PROPOSING AN AMENDMENT TO THE STATE'S  
CONSTITUTION BE PLACED BEFORE THE VOTERS.....

IT ONLY MAKES GOOD SENSE.....IN MY ESTIMATION.....THAT AMENDING THE  
CONSTITUTION BY INITIATIVE SHOULD ALSO REQUIRE A 2/3 AFFIRMATIVE  
VOTE FOR PASSAGE.....THIS WOULD BE CONSISTENT AND APPROPRIATE.....

THE INITIATIVE PROCESS IS NOT A CUT AND DRIED PROCESS.....IT TAKES  
A LOT OF PREPARATION WORK PRIOR TO EVEN GETTING THE QUESTION ON  
THE BALLOT FOR A VOTE.....

- 1) AN INITIATIVE IS PROPOSED BY FILING AN APPLICATION WITH THE  
LT. GOVERNOR AND MUST BE ACCOMPANIED BY A DEPOSIT OF \$100  
AND SHALL BE REFUNDABLE ONLY IF THE PETITION IS PROPERLY  
FILED.....
- 2) THE APPLICATION SHALL INCLUDE THE PROPOSED BILL TO BE  
INITIATED.....THE SIGNATURES AND ADDRESSES OF NOT LESS  
THAN QUALIFIED VOTERS.....WHO THEN BECOME THE SPONSORS  
AND THE DESIGNATION OF AN INITIATIVE COMMITTEE OF (3)  
SPONSORS WHO SHALL REPRESENT ALL SPONSORS AND SUBSCRIBERS  
IN MATTERS RELATING TO THE INITIATIVE.....

TESTIMONY BEFORE THE HOUSE JUDICIARY COMMITTEE (2-15-93)  
PAGE THREE

HOUSE JOINT RESOLUTION 1

ONCE THE LT. GOVERNOR HAS CERTIFIED THE APPLICATION.....HE SHALL PREPARE THE PETITIONS FOR PURPOSES OF CIRCULATION AND IN A NUMBER REASONABLE CALCULATED TO ALLOW FULL CIRCULATION IN THE STATE..... THE PETITIONS MAY BE CIRCULATED THROUGHOUT THE STATE ONLY BY A SPONSOR AND ONLY IN PERSON.....ONCE THE SPONSORS RECEIVED NOTICE FROM THE LT. GOVERNOR THAT THE PETITIONS ARE AVAILABLE FOR DISTRIBUTION.....THEY HAVE ONE YEAR FROM THEN TO OBTAIN SIGNATURES FROM QUALIFIED VOTERS EQUAL IN NUMBER TO 10 PERCENT OF THOSE WHO VOTED IN THE PRECEDING GENERAL ELECTION AND RESIDE IN AT LEAST TWO-THIRDS OF THE ELECTION DISTRICTS OF THE STATE.....

MR. CHAIRMAN.....PRESENTLY 21 STATES ALLOW FOR THE INITIATIVE PROCESS.....17 OF WHICH CAN AMEND THEIR CONSTITUTION BY THIS METHOD.....

I HAVE PROVIDED THE COMMITTEE WITH A LISTING OF THOSE STATES.....

ALSO YOU WILL FIND IN YOUR FILES.....A COLOR CODED CHART INDICATING WHAT CONSTITUTIONAL MEASURES HAVE APPEARED ON THE BALLOT IN ALASKA..... AND BY WHAT PERCENTAGES THEY HAVE PASSED.....AND REPORTS FROM THE LEGISLATIVE RESEARCH AGENCY

FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. HJR 1

Revision Date: \_\_\_\_\_  
Title: Amendment to the Constitution RE: use of initiative to amend State Constitution  
Sponsor: Representatives Phillips, Bunde  
Requestor: \_\_\_\_\_

Department Affected: Office of the Governor  
BRU: Division of Elections  
Component: General and Primary Elections  
COMPONENT SERIAL NO. 22

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	2.2*	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	2.2*	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING:

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	2.2*	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	2.2*	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year (FY93) impact: 0

ANALYSIS: (Attach a separate page if necessary.) \*This figure covers cost of inclusion of information about this issue in the Official Elections Pamphlet as required by AS 15.58, and programming for DataVote counting of votes cast on the measure. However, only 4 measures can be printed on a single ballot card. Should this measure require printing and additional ballot card, the fiscal impact would be 53.4.

Prepared by: Charlot E. Thickstun, Director *Charlotte Thickstun* Phone: 465-4611  
Division: Division of Elections Date: 1/15/93

Approved by Commissioner: Lt. Governor John B. Coghill *J. Coghill*  
Agency: Office of the Lt. Governor Date: 1/15/93

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# Alaska State Legislature

## HOUSE OF REPRESENTATIVES

### REPRESENTATIVE GAIL PHILLIPS

STATE CAPITOL  
JUNEAU, ALASKA  
99801-1182

Official Business  
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#### MEMORANDUM

TO: Representative Brian Porter, Chairman *Brian*  
House Judiciary Committee

FROM: Representative Gail Phillips *Gail*

SUBJECT: House Joint Resolution 1  
(use of initiative to amend constitution)

DATE: February 1, 1993

I would appreciate your scheduling the above referenced resolution for a hearing before the House Judiciary Committee at your earliest possible convenience.

Presently 21 states allow for the initiative process; 17 of those to amend their state's constitution.

I have provided the attached information for the committee files and anticipate that I may have additional backup prior to the committee's hearing. My sponsor statement will be provided following my testimony.

Your consideration of my request is greatly appreciated.

GP/sgn

Attachments

CONSTITUTIONS

Table 1.3  
**CONSTITUTIONAL AMENDMENT PROCEDURE: BY INITIATIVE**  
 Constitutional Provisions

State or other jurisdiction	Number of signatures required on initiative petition	Distribution of signatures	Referendum vote
Arizona.....	15% of total votes cast for all candidates for governor at last election.	None specified.	Majority vote on amendment.
Arkansas.....	10% of voters for governor at last election.	Must include 5% of voters for governor in each of 15 counties.	Majority vote on amendment.
California.....	8% of total voters for all candidates for governor at last election.	None specified.	Majority vote on amendment.
Colorado.....	5% of total legal votes for all candidates for secretary of state at last general election.	None specified.	Majority vote on amendment.
Florida.....	8% of total votes cast in the state in the last election for presidential electors.	8% of total votes cast in each of 1/2 of the congressional districts.	Majority vote on amendment.
Illinois (a).....	8% of total votes cast for candidates for governor at last election.	None specified.	Majority voting in election or 3/5 voting on amendment.
Massachusetts (b)....	3% of total votes cast for governor at preceding biennial state election (not less than 25,000 qualified voters).	No more than 1/4 from any one county.	Majority vote on amendment which must be 30% of total ballots cast at election.
Michigan.....	10% of total voters for all candidates at last gubernatorial election.	None specified.	Majority vote on amendment.
Missouri.....	8% of legal voters for all candidates for governor at last election.	The 8% must be in each of 2/3 of the congressional districts in the state.	Majority vote on amendment.
Montana.....	10% of qualified electors, the number of qualified electors to be determined by number of votes cast for governor in preceding general election.	The 10% to include at least 10% of qualified electors in each of 2/5 of the legislative districts.	Majority vote on amendment.
Nebraska.....	10% of total votes for governor at last election.	The 10% must include 5% in each of 2/5 of the counties.	Majority vote on amendment which must be at least 35% of total vote at the election.
Nevada.....	10% of voters who voted in entire state in last general election.	10% of total voters who voted in each of 75% of the counties.	Majority vote on amendment, in two consecutive general elections.
North Dakota.....	4% of population of the state.	None specified.	Majority vote on amendment.
Ohio.....	10% of total number of electors who voted for governor in last election.	At least 5% of qualified electors in each of 1/2 of counties in the state.	Majority vote on amendment.
Oklahoma.....	15% of legal voters for state office receiving highest number of voters at last general state election.	None specified.	Majority vote on amendment.
Oregon.....	8% of total votes for all candidates for governor at last election at which governor was elected for four-year term.	None specified.	Majority vote on amendment.
South Dakota.....	10% of total votes for governor in last election.	None specified.	Majority vote on amendment.
No. Mariana Islands...	50% of qualified voters of commonwealth	In addition, 25% of qualified voters in each senatorial district	Majority vote on amendment if legislature approved it by majority vote; if not, at least 2/3 vote in each of two senatorial districts in addition to a majority vote.

(a) Only Article IV, the Legislature, may be amended by initiative petition.

(b) Before being submitted to the electorate for ratification, initiative

measures must be approved at two sessions of a successively elected legislature by not less than one-fourth of all members elected, sitting in joint session.

PROCEED

State or other jurisdiction
Alabama.....
Alaska.....
Arizona.....
Arkansas.....
California.....
Colorado.....
Connecticut.....
Delaware.....
Florida.....
Georgia.....
Hawaii.....
Idaho.....
Illinois.....
Indiana.....
Iowa.....
Kansas.....
Kentucky.....
Louisiana.....
Maine.....
Maryland.....
Massachusetts.....
Michigan.....
Minnesota.....
Mississippi.....
Missouri.....
Montana.....
Nebraska.....
Nevada.....
New Hampshire.....
New Jersey.....
New Mexico.....
New York.....
North Carolina.....
North Dakota.....
Ohio.....
Oklahoma.....
Oregon.....
Pennsylvania.....
Rhode Island.....
South Carolina.....
South Dakota.....
Tennessee.....
Texas.....
Utah.....
Vermont.....
Virginia.....
Washington.....
West Virginia.....
Wisconsin.....
Wyoming.....
American Samoa.....
No. Mariana Islands.....
Puerto Rico.....

See footnotes at end of

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Table 1.4  
**PROCEDURES FOR CALLING CONSTITUTIONAL CONVENTIONS**  
**Constitutional Provisions**

<i>State or other jurisdiction</i>	<i>Provision for convention</i>	<i>Legislative vote for submission of convention question(a)</i>	<i>Popular vote to authorize convention</i>	<i>Periodic submission of convention question required(b)</i>	<i>Popular vote required for ratification of convention proposals</i>
Alabama.....	Yes	Majority	ME	No	Not specified
Alaska.....	Yes	No provision(c,d)	(c)	10 years(c)	Not specified(c)
Arizona.....	Yes	Majority	(e)	No	MP
Arkansas.....	No		No		
California.....	Yes	2/3	MP	No	MP
Colorado.....	Yes	2/3	MP	No	ME
Connecticut.....	Yes	2/3	MP	20 years(f)	MP
Delaware.....	Yes	2/3	MP	No	No provision
Florida.....	Yes	(g)	MP	No	Not specified
Georgia.....	Yes	(d)	No	No	MP
Hawaii.....	Yes	Not specified	MP	9 years	MP(h)
Idaho.....	Yes	2/3	MP	No	Not specified
Illinois.....	Yes	3/5	(i)	20 years	MP
Indiana.....	No		No		
Iowa.....	Yes	Majority	MP	10 years: 1970	MP
Kansas.....	Yes	2/3	MP	No	MP
Kentucky.....	Yes	Majority(j)	MP(k)	No	No provision
Louisiana.....	Yes	(d)	No	No	MP
Maine.....	Yes	(d)	No	No	No provision
Maryland.....	Yes	Majority	ME	20 years: 1970	MP
Massachusetts.....	No			No	Not specified
Michigan.....	Yes	Majority	MP	16 years: 1978	MP
Minnesota.....	Yes	2/3	ME	No	3/5 voting on proposal
Mississippi.....	No		No		
Missouri.....	Yes	Majority	MP	20 years: 1962	Not specified(l)
Montana.....	Yes(m)	2/3(n)	MP	20 years	MP
Nebraska.....	Yes	3/5	MP(o)	No	MP
Nevada.....	Yes	2/3	ME	No	No provision
New Hampshire.....	Yes	Majority	MP	10 years	2/3 voting on proposal
New Jersey.....	No		No		
New Mexico.....	Yes	2/3	MP	No	Not specified
New York.....	Yes	Majority	MP	20 years: 1957	MP
North Carolina.....	Yes	2/3	MP	No	MP
North Dakota.....	No		No		
Ohio.....	Yes	2/3	MP	20 years: 1932	MP
Oklahoma.....	Yes	Majority	(e)	20 years	MP
Oregon.....	Yes	Majority	(e)	No	No provision
Pennsylvania.....	No		No		
Rhode Island.....	Yes	Majority	MP	10 years	MP
South Carolina.....	Yes	(d)	ME	No	No provision
South Dakota.....	Yes	(d)	(d)	No	(p)
Tennessee.....	Yes(q)	Majority	MP	No	MP
Texas.....	No		No		
Utah.....	Yes	2/3	ME	No	MP
Vermont.....	No		No		
Virginia.....	Yes	(d)	No	No	MP
Washington.....	Yes	2/3	ME	No	Not specified
West Virginia.....	Yes	Majority	MP	No	Not specified
Wisconsin.....	Yes	Majority	MP	No	No provision
Wyoming.....	Yes	2/3	ME	No	Not specified
American Samoa.....	Yes	(r)	No	No	ME(s)
Puerto Rico.....	Yes	2/3	MP	No	MP

Provided by Senator Rick Halford for SJR 6 (am State constitution authorizing use of initiative process) 1-27-93

HOUSE JOINT RESOLUTION 1 - Sponsored by Representative Gail Phillips

CONSTITUTIONAL AMENDMENTS APPEARING ON THE BALLOT

Election Date	Subject of Amendment	Provisions Affected	Resolution Number	Vote Totals		% in favor
				For	Against	
08/23/66	Residency Requirement to Vote for President	Article V, Section 1	SJR 1	38,667	12,383	75%
08/27/68	Commission on Judicial Qualifications	Article IV, Section 10	HJR 74	32,481	12,823	71%
08/27/68	Compensation of Judicial Qualification Commission	Article IV, Section 13	HJR 74	27,158	17,467	61%
08/25/70	Establishing Voting Age at 18 Years	Article V, Section 1	HJR 7	38,590	31,216	54%
08/25/70	English Eliminated as Requisite for Voting	Article V, Section 1	HJR 51	34,079	32,578	51%
08/25/70	Secretary of State Designated Lieutenant Governor	Article III, Sections 7 - 11, 13 - 15 and 25; Article XI, Sections 2 - 8; Article XIII, Sections 1 and 3; and Article XV, Section 9	SJR 2	48,102	18,781	71%
08/25/70	Chief Justice Election by Supreme Court	Article IV, Section 2	HJR 11	44,055	19,583	69%
08/25/70	Term of Office for Judicial System Administrator	Article IV, Section 16	HJR 11	43,482	18,651	70%
08/22/72	Residency Requirement for Voting	Article V, Section 1	HJR 128	31,130	20,745	60%
08/22/72	Prohibition of Sexual Discrimination	Article I, Section 3	HJR 102	43,281	10,278	81%

- = passage by 66% or greater = 11
- = passage by 60-66% = 9
- = passage by 50-60% = 2
- = failed passage = 9

Total submitted = 31

CONSTITUTIONAL AMENDMENTS APPEARING ON THE BALLOT

Election Date	Subject of Amendment	Provisions Affected	Resolution Number	Vote Totals		% in favor
				For	Against	
08/22/72	Right of Privacy	Article I, Section 22	SJR 68	45,539	7,303	86%
08/22/72	Eliminate City Representation on Borough Assemblies	Article X, Section 4	SJR 52	30,132	19,354	61%
08/22/72	Limited Entry Fisheries	Article VIII, Section 15	SJR 10	39,837	10,761	79%
08/27/74	Voting on Constitutional Amendments at General Elections	Article XIII, Section 1	HJR 20	56,017	20,403	73%
11/02/76	Action on Veto of Bills	Article II, Sections 9 and 16	HJR 11	71,829	39,980	64%
11/02/76	Permanent Fund from Nonrenewable Resource Revenue	Article IX, Sections 7 and 15	HJR 39	75,588	38,518	66% 66.24
11/02/76	Administration and Review of State Land Disposal	Article VIII, Section 10	SJR 10	46,852	64,744	42%
11/02/78	Direct Financial Aid to Students	Article VII, Section 1	HJR 73	54,636	64,211	46%
11/07/78	Powers of Legislative Interim Committees	Article II, Section 11	SJR 16	48,078	88,403	40%
11/04/80	Legislative Annulment of Regulations	Article II, (New Section)	HJR 82	58,808	82,010	42%
11/04/80	Disqualifications of Legislators	Article II, Section 25	SJR 2	47,054	99,705	32%
11/04/80	Interim and Special Legislative Committees	Article II, Section 11	HJR 80	41,868	102,270	29%
11/04/80	Appointment and Confirmation of Members	Article III, Section 26	HJR 20	56,316	90,506	38%

CONSTITUTIONAL AMENDMENTS APPEARING ON THE BALLOT

Election Date	Subject of Amendment	Provisions Affected	Resolution Number	Vote Totals		% in favor
				For	Against	
11/02/82	Veterans' Housing Bonding Authority	Article IX, Section 8	HJR 71	111,460	69,497	62%
11/02/82	Changes in Commission on Judicial	Article IV, Section 10	HJR 32	123,172	53,424	70%
11/02/82	Limiting Increases in Appropriations	Article IX, Section 16; Article XV, Sections 26, 27 and 28	SJR 4	110,669	71,531	61%
11/06/84	Legislative Annulment of Administrative Regulations	Article II, (New Section)	HJR 5	91,171	98,855	48%
11/06/84	Limiting Length of Regular Legislative Sessions	Article II, Section 8	HJR 2 (Rules)	150,999	84,299	62%
11/04/86	Legislative Annulment of Administrative Regulations	Article II, (New Section)	SJR 40	65,176	84,299	41%
11/08/88	Resident Hiring Preference	Article I, Section 23	HJR 18	162,997	30,650	84%
11/06/90	Budget Reserve Fund	Article IX, Section 17	SJR 5	124,280	63,307	66% 66.25%

Rejected by voters.

Prepared by the Legislative Research Agency, September 1992 (92.A).

**HOUSE COMMITTEE REPORT**

(11)

Date Referred: January 11, 1993

FURTHER REFERRALS:

Judiciary  
Finance

Date of Committee Action: 1-30-93

The STATE AFFAIRS Committee considered:

HJR 1

HOUSE JOINT RESOLUTION NO. 1

USE OF INITIATIVE TO AMEND CONSTITUTION

Proposing amendments to the Constitution of the State of Alaska authorizing the use of the initiative to amend the Constitution of the State of Alaska by approval of two-thirds of the votes cast on the proposed amendment.

RECOMMENDATIONS: [ ] the same title  
 be replaced with \_\_\_\_\_ [ ] a new title

[ ] have attached amendments(s)

do pass

[ ] do not pass

[ ] no recommendations

[ ] individual recommendations

[ ] additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

[ ] fiscal impact \_\_\_\_\_

[ ] fiscal note(s) \_\_\_\_\_

[ ] zero fiscal note \_\_\_\_\_

[ ] zero fiscal note(s) \_\_\_\_\_

SIGNING <u>DO PASS</u>	DP	<u>OTHER RECOMMENDATIONS</u>	DNP	NR	AM
<i>[Signature]</i>		<i>[Signature]</i>	X		
<i>[Signature]</i>	✓	<i>Betty Davis</i>	X		
<i>[Signature]</i>	✓				
<i>[Signature]</i>	X				

*[Signature]*  
CHAIRMAN'S SIGNATURE

# Alaska State Legislature



P.O. Box Y  
Juneau, AK 99811-3100  
Phone: (907) 165-3991  
Fax: (907) 163-3331

Legislative Research Agency

April 24, 1991

## MEMORANDUM

TO: Senator Richard Eliason  
FROM: Gordon S. Harrison, Director *gsh*  
RE: Amendments to the Alaska Constitution  
Research Request 91.267

You asked for a list of amendments to the Alaska Constitution and the sponsor(s) of the resolution proposing each amendment. The table accompanying this memorandum presents the information you requested. You also asked for my opinion about the amendments that have been most significant. I believe that two amendments have had especially important social and economic impacts: the amendment that authorized the program of limited entry in the fisheries and the amendment that created the Alaska Permanent Fund. Two other important amendments are those that guaranteed a right to privacy and that limited the legislative session to 120 days. These amendments are highlighted on the table.

I hope this information is useful to you. If we can be of additional assistance, do not hesitate to contact us.

Attachment

LEGISLATIVE RESEARCH REPORTS

## LIST OF AMENDMENTS TO THE ALASKA CONSTITUTION (1991)

Year of Legislative Action	Title	Legislative Reference	Provisions Affected	Sponsors
1966	Permits voting requirements for President and Vice President to be set by law.	SJR 1	Article V, Section 1	Polluck
1968	Provides for removal, suspension, and censure of judges; creates commission on judicial qualifications [now judicial conduct]	2d FCCS SCS CS HJR 74	Article IV, Sections 10, 13	The Judiciary Committee by request
1969	Sets voting age at 18 years	HJR 7	Article V, Section 1	Schwamm, Anderson, Beirne, Boardman, Bradner, Bronson, Chance, Cornelius, Croft, Deveau, Eliason, Guess, Hensley, Hohman, Holm, Jackson, Kay, Kerttula, McVeigh, Metcalf, Miller, Orbeck, Paukan, Peratrovich, Reeves, Rettig and Sassara
1970	Changes title of secretary of state to lieutenant governor	SJR 2	Article III, Sections 7 - 11, 13 - 15, 25; Article XI, Sections 2 - 6; Article XIII, Sections 1, 3	Miller
1970	Provides for election of chief justice by majority of supreme court; places executive director of the court system under the control of the entire supreme court	FCCS SCS CS HJR 11	Article IV, Sections 2, 16	Kay, Bradner, Cornelius, Fink, Jackson, McVeigh and Miller
1970	Eliminates requirement to read or speak English for voting	HJR 51 am S	Article V, Section 16	Croft, Banfield, Borer, Bradner, Bronson, Chance, Cornelius, DeVeau, Eliason, Guess, Hensley, Hohman, Kay, McGill, McVeigh, Miller, Moses, Paukan, Peratrovich, Reeves, Rettig, Sackett, Sassara, Schwamm and Young
1971	Amends exclusive right of fisheries provision (permits limited entry program)	HCS CS SJR 10	Article VIII, Section 15	Rules Committee at request of governor

## LIST OF AMENDMENTS TO THE ALASKA CONSTITUTION (1991)

Year of Legislative Action	Title	Legislative Reference	Provisions Affected	Sponsors
1972	Includes "sex" in civil rights provision	HJR 102	Article 1, Section 3	Rules Committee at request of governor
1972	Guarantees right to privacy	HCS SJR 68	Article 1 Section 22	Rules Committee by request
1972	Deletes one-year residency for voting	HJR 126 am S	Article V, Section 1	Rules Committee at request of governor
1972	Changes representation on borough assemblies	SJR 52	Article X, Section 4	Rules Committee at request of governor
1973	Provides for ratification of amendments in general election	HJR 20	Article XIII, Section 1	Parker
1975	Permits the legislature to reconsider in special session bills vetoed by governor	SCS CS HJR 11	Article II Sections 6, 9	Urion, Bowman, Bradner, Eliason, Fink, Freeman, Miller, Parker and Wallis
1976	Creates Alaska Permanent Fund	SCS CS SS HJR 39 (Resources) am S	Article IX Sections 7, 15	Rules Committee at request of governor
1981	Renames Commission on Judicial Qualifications	CS HJR 32 (Judiciary) am S	Article IV, Section 10	Judiciary Committee
1981	Imposes appropriation limit	FSS FCCS SJR 4	Article IX, Section 16; Article XV	Rules Committee at request of governor
1982	Permits general obligation debt for veterans housing	CS HJR 71 (State Affairs)	Article IX, Section 8	Cotten
1983	Limits length of legislative sessions	SCS CS HJR 2 (Rules)	Article II, Section 8	Hayes, Barnes, Flood, Phillips, Furnance, Abood, Liska, Cowdery, Szymanski, Fischer and Fritz
1988	Allows state to give hiring preference to Alaska residents	HJR 18 (Finance)	Article 1, Section 23	Donley, Gruenberg, Boyer, Hoffman, Koponen, Springer and Grussendorf
1990	Creates budget reserve fund	HCSCSSS SJR 5 (Finance am H)	Article IX, Section 17	Faiks, Jones Eliason, Fischer, Kelly and Uehling

Prepared by the Legislative Research Agency, April 1991 (91.267).

# Alaska State Legislature



Legislative Research Agency

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April 30, 1991

## MEMORANDUM

TO:

FROM: Gordon S. Harrison, Director 

RE: Initiative Process  
Research Request 91.262

You asked for information about the initiative process in a western state other than Alaska. We have chosen Utah as a case study, although we are enclosing some comparative information from the *Book of the States, 1990-1991* (published by the Council of State Governments) about the initiative process in the 23 states that currently allow some variation of it.

## Initiative

The initiative is the method by which citizens can enact legislation or put before the legislature a proposed law. The *direct* initiative allows the voters to enact legislation; the *indirect* initiative allows voters to introduce a bill in the legislature.

Voters may not initiate federal laws in the United States. In fact, the initiative is rarely permitted by national governments (Australia and Switzerland are two of just a few exceptions). The initiative is far more common at the state and local level.

Both the initiative and referendum--the referendum allows voters to reject at the polls an act adopted by the legislature--were championed by political reformers early in this century as devices for expanding popular participation in lawmaking. As a consequence, these progressive measures were either authorized by statute or incorporated into state constitutions in many states.

According to the *Book of the States, 1990-1991*, the direct or indirect initiative is available to citizens in 23 states. In just two of these is only the indirect initiative permitted.

Use of the direct initiative is frequently limited. For example, the initiative may not be used to amend the constitution in some states (including Alaska), nor may it be used in some states (again, including Alaska) to appropriate money. Typically, an initiative may not be vetoed by the governor. Some states give the legislature a chance to act on the subject matter of an initiative before voters are presented with the act drawn up by the sponsors

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Page 2

of the initiative petition. In Alaska, for example, Article XI, Section 4 gives the legislature a chance to deal with the subject of an initiative petition. If the legislature enacts a law that is "substantially the same" as the petition, the petition dies.

Some states prohibit the legislature from repealing or amending an initiated law, or at least for doing so for a specified length of time after the measure is adopted. In Alaska, for example, an initiated law may not be repealed for two years after its enactment, although it may be amended by the legislature (which, of course, might be tantamount to repeal).

In order for an initiative to reach the ballot, the petition must have a substantial number of signatures. This is to ensure that the measure is widely supported, and to protect against frivolous use of the process. The number of required signatures varies from state to state, and it is usually expressed as a percent of the number of voters who cast ballots in the most recent election.

All initiated laws must conform to constitutional and other legal standards that pertain to regular legislation. For example, voters in Alaska may not by initiative adopt a "special or local act" prohibited by Article II, Section 19 of the state constitution.

### Initiative In Utah

In Utah the initiative is authorized by statute rather than by the state constitution (Attachment A). The initiative may not be used to amend the constitution; it may be used only to enact legislation. There are no limits on the type of legislation that may be adopted by the initiative.

Utah law provides for both a direct and indirect initiative. The indirect initiative, by which petitioners may introduce a bill in the legislature, requires less effort than a direct initiative: an indirect initiative requires valid signatures from five percent of the total votes cast for the office of governor in the most recent election; a direct initiative requires the signatures of ten percent of the voters. Filing deadlines and other details of these two procedures are described in the statutes.

A bill submitted to the legislature by the indirect initiative process "shall be either enacted or rejected without change or amendment by the legislature (20-11-2)."

A law enacted by the direct initiative may not be vetoed by the governor. However, an initiated law may be amended by the legislature at any time.

Attached to this memorandum are several tables from the publication *Book of the States, 1990-1991* (Attachment B) that present information about the initiative process in each of the 23 states that allow it. These tables permit a fairly

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detailed comparison of the initiative process in Utah with that in other states.

I hope this is the information you were looking for. Please contact us if we can offer further assistance.

Attachments

**THE  
BOOK  
OF THE  
STATES**

**1990-91 EDITION**

**Volume 28**



The Council of State Governments  
Lexington, Kentucky

ELECTIONS

Table 5.14  
STATE INITIATIVES: REQUESTING PERMISSION TO CIRCULATE A PETITION

1984 AND 1988

Year	Number registered	Number voting
1980		
	2,132	1,342
	259	158
	1,121	874
	1,186	838
	1,1361	8,387
	1,434	1,184
	1,706	1,406
	301	236
	4,810	3,687
	2,377	1,597
	403	303
	581	437
	6,230	4,740
	2,944	2,242
	1,717	1,318
	1,291	980
	1,759	1,295
	2,015	1,549
	760	523
	2,065	1,540
	1,153	2,524
	726	3,910
	3,353	2,052
	1,482	893
	2,841	2,100
	496	364
	856	641
	297	248
	523	384
	3,766	2,976
	653	457
	3,898	6,202
	2,775	1,856
(e)	302	
3,887	4,284	
1,458	1,150	
1,569	1,182	
5,754	4,562	
531	416	
1,236	894	
448	328	
2,149	1,618	
6,640	4,542	
782	604	
312	213	
2,302	1,866	
2,182	1,742	
1,035	738	
(e)	2,273	
219	177	
289	175	

... cast in presidential race.  
... included from totals for persons

State	Applied to (a)		Signatures required to request a petition (b)		Request submitted (c)	Request form furnished by (c)	Restricted subject matter (d)	Individual responsible for petition		Financial contributions reported (e)	Deposit required (f)
	Amendment	Statute	Amendment	Statute				Title	Summary		
Alabama		D		100	LG	SP	Y	LG	LG	Y	\$100.00
Alaska		D			SS	ST	N			Y	
Arizona	D	D	15% EV	10% EV	AG	SP	N	AG	AG	N	
Arkansas	D	D			AG	SP	N	AG	AG	Y	\$200.00
California	D	D					N	(g)	(g)	Y	
Colorado	D	D									
Connecticut											
Delaware											
Florida	D				SS	SP	N	P	P	Y	
Georgia											
Hawaii											
Idaho		D		20	SS	SP	N	AG	AG	Y	
Illinois	D										
Indiana											
Iowa											
Kansas											
Kentucky											
Louisiana											
Maine		I				SP	Y	P	P	Y	
Maryland											
Massachusetts	I	I	10	10	AG	ST	Y	AG	AG	Y	
Michigan	D	I					Y			Y	
Minnesota											
Mississippi											
Missouri	D	D			SS	SP	Y	SS,AG		Y	
Montana	D	D			SS	SP	Y	AG	AG	Y (h)	
Nebraska	D	D			SS	SP	Y	AG	AG	Y	N
Nevada	D	I			SS	SP	Y	P	P	Y (i)	
New Hampshire											
New Jersey											
New Mexico											
New York											
North Carolina											
North Dakota	D	D	25	25	SS	SP	Y	SS,AG	SS,AG	Y (e)	
Ohio	D	I			SS	SP	Y		AG	Y	
Oklahoma	D	D			SS	SP	N	AG	AG	Y	
Oregon	D	D	25	25	SS	SP	N	AG	AG	Y	
Pennsylvania											
Rhode Island											
South Carolina											
South Dakota	D	D			SS	SP	N	P		Y	
Tennessee											
Texas											
Utah		I,D		5	LG	SP	N	LG	LG	N	
Vermont											
Virginia											
Washington		I,D		1	SS	SP	N	AG	AG	Y	N
West Virginia											
Wisconsin											
Wyoming		D		100	SS	SP	Y	AG,SS	AG,SS		\$100.00

Source: State election administration offices.

Key:

- ... — Not applicable
- D — Direct
- I — Indirect
- EV — Eligible voters
- LG — Lieutenant Governor
- SS — Secretary of State
- AG — Attorney General
- P — Proponent
- ST — State
- SP — Sponsor
- Y — Yes
- N — No

(a) An initiative may provide a Constitutional Amendment or develop a new statute, and may be formed either directly or indirectly. The direct initiative allows a proposed measure to be placed on the ballot after a specific number of signatures have been secured on a petition. The indirect initiative must first be submitted to the legislature for decision after the required number of signatures have been secured on a petition, prior to placing the proposed measure on the ballot.

(b) Prior to circulating a statewide petition, a request for permission to do so must first be submitted to a specified state officer.

(c) The form on which the request for petition is submitted may be the responsibility of the sponsor or may be furnished by the state.

(d) Restrictions may exist regarding the subject matter to which an initiative may be applied. The majority of these restrictions pertain to the dedication of state revenues and appropriations, and laws that maintain the preservation of public peace, safety, and health.

(e) In some states, a list of financial contributors and the amount of their contributions must be submitted to the specified state officer with whom the petition is filed. In North Dakota, if over \$100 in aggregate for calendar year.

(f) A deposit may be required after permission to circulate a petition has been granted. This amount is refunded when the completed petition has been filed correctly.

(g) Title Setting Board—SS, AG, Director of Legislative Legal Services.

(h) Contributions reported to Commissioner of Political Practices; petitions filed with SS.

(i) Expenditures made in excess of \$500.00 for the purpose of advocating the passage or defeat of the measure must be reported.

**Table 5.15  
STATE INITIATIVES: CIRCULATING THE PETITION**

State or other jurisdiction	Basis for signatures		Maximum time period allowed for petition circulation (a)	Can signatures be removed from petition (b)	Completed petition filed with	Days prior to election	
	Amendment	Statute				Amendment	Statute
Alabama		10% TV from 2/3 ED	1 year	Y	LS		
Alaska		10% VG	2 years	Y	SS	4 months	4 months
Arizona	15% VG				SS		
Arkansas	10% E+G, 5% each from 15 co	8% VEO, 5% each from 15 co			SS		
California	8% VG	5% VG	150 days	Y	SS	131 days	131 days
Colorado	5% VSS	5% VSS	6 months		SS	1 month	
Connecticut							
Delaware					SS	91 days	
Florida	8% VEP, 8% from 1/2 CD						
Georgia							
Hawaii		10% VG			SS		4 months
Idaho					SS	6 months	
Illinois	8% VG		2 years	Y			
Indiana							
Iowa							
Kansas							
Kentucky							
Louisiana		10% VG	1 year		SS		
Maine							
Maryland							
Massachusetts	5% VG, no more than 25% from 1 co, 10% VG	5% VG, no more than 25% from 1 co. (c)	(d)	Y	SS	(e)	(e)
Michigan		8% VG			SS		
Minnesota							
Mississippi	8% VG, 8% each from 2/3 CG	5% VG, 5% each from 2/3 CD	12 months	Y	SS	4 months	
Missouri							
Montana	10% VG, 10% each from 2/3 SLD	5% VG, 5% each from 1/3 SLD	1 year	Y	SS	(f)	(f)
Nebraska	10% EV, 5% each from 2/3 co.	5% EV, 5% each from 2/3 co.		Y	SS	4 months	4 months
Nevada	10% TV, 10% each from 3/4 co.	10% TV, 10% each from 3/4 co.	(g)		SS	30 days prior to LS	30 days
New Hampshire							
New Jersey							
New Mexico							
New York							
North Carolina		2% resident population			SS	90 days	90 days
North Dakota	4% resident population	5% resident population					
Ohio	10% VG, 1.5% each from 1/2 co.	5% VG, 1.5% each from 1/2 co. (h)			SS	90 days	90 days
Oklahoma	15% VH	8% VH	90 days	N	SS		
Oregon	8% VG	6% VG			SS	4 months	4 months
Pennsylvania							
Rhode Island							
South Carolina							
South Dakota	10% VG	5% VG	1 year		SS	one year	189 days
Tennessee							
Texas		10% VG, 10% each from 1/2 co.	2 years	Y	LG		150 days
Utah							
Vermont							

**STATE INITIATIVES: CIRCULATING THE PETITION—Continued**

State or other jurisdiction	Basis for signatures		Maximum time period allowed for petition circulation (a)	Can signatures be removed from petition (b)	Completed petition filed with	Days prior to election	
	Amendment	Statute				Amendment	Statute
Virginia							
Washington		8% VG	(b)	Y	SS		(i)
West Virginia							
Wisconsin							
Wyoming		15% TV	18 months	Y	SS		60 days

Source: State election administrative offices.

- Key:**  
 ... — Not applicable  
 VG — Total votes cast for the position of governor last election  
 EV — Eligible voters  
 VH — Total votes cast for the office receiving the highest number of votes cast last general election  
 TV — Total voters in last general election  
 ED — Election district  
 co. — county  
 SS — Secretary of State  
 LS — Legislative Session  
 (a) The petition circulation period begins when petition forms have been approved and provided to

- sponsors. Sponsors are those individuals granted permission to circulate a petition, and are therefore responsible for the validity of each signature on a given petition.  
 (b) Should an individual wish to remove his/her name from a petition, a request to do so must be submitted in writing to the state officer with whom the petition is filed.  
 (c) First Wednesday in December.  
 (d) In Michigan, signatures dated more than 180 days prior to the filing date are ruled invalid.  
 (e) Constitutional Amendment—not less than 120 days prior to the next general election; statute—approximately 160 days prior to the next general election.  
 (f) Second Friday of the fourth month prior to election (3 1/2 months).  
 (g) Constitutional Amendment—276 days; Amend or create a statute—291 days.  
 (h) Direct—6 months; Indirect—10 months.  
 (i) Direct—4 months; Indirect—10 months prior to legislative session.

ATTACHMENT A

ned by legal voters thereof equal in number to the following percentages all the votes cast in the county, city, or town for all candidates for governor at the next preceding election at which a governor was elected:

- a) If the total number of such votes exceeds 10,000, the petition shall signed by 10%.
- b) If the total number of such votes does not exceed 10,000, but is more in 2,500, the petition shall be signed by 12 ½%.
- c) If the total number of such votes does not exceed 2,500, but is more in 500 the petition shall be signed by 15%.
- d) If the total number of such votes does not exceed 500, but is more in 250, the petition shall be signed by 20%.
- e) If the total number of such votes does not exceed 250, the petition all be signed by 30%.

**History:** L. 1917, ch. 56, § 22; C.L. 1917, 111; R.S. 1933 & C. 1943, 25-10-22; L. 1981, 102, § 2.

**Compiler's Notes.**

The 1981 amendment inserted the subsection and subdivision designations; inserted references to counties throughout the section; I made minor changes in phraseology and situation.

**Collateral References.**

Statutes ⇄ 309, 349.  
82 CJS Statutes § 123.  
42 AmJur 2d 676, Initiative and Referendum § 27.

Right of signer of petition or remonstrance to withdraw therefrom or revoke withdrawal, and time therefor, 126 ALR 1031, 27 ALR 2d 604.

**20-11-23. Procedure — Arguments.** (1) In all counties, cities, and towns the manner of exercising the initiative and referendum powers reserved by the constitution to the people thereof shall be similar to the procedure prescribed by this chapter for the state initiative and referendum, and the duties required of the county clerk and the lieutenant governor by this chapter as to state legislation shall be performed as to such county or municipal legislation by the county clerk, city recorder, or town clerk, as the case may be; the duties required of the governor shall be performed by the chief executive officer of the county, mayor, or president of a board of town trustees, as the case may be; and the duties required of the attorney general shall be performed by the county, city, or town attorney, as the case may be. The provisions of this chapter shall apply to every county, city, and town in all matters concerning the operation of the initiative and referendum in its county or municipal legislation. The printing and binding of the "local voter information pamphlet" shall be provided for by the county, city, or town; distribution of the pamphlets shall be made to every voter in the county, city, or town, so far as possible, by the clerk or recorder, as the case may be, either by mail or carrier, not less than eight days before the election at which the measures are to be voted upon. Arguments supporting county or municipal measures shall be filed with the clerk or recorder, as the case may be, not less than 30 days before the election at which they are to be voted upon; and opposing arguments shall be filed not less than 30 days before the election. It is intended

to make the procedure in county or municipal legislation as nearly as practicable the same as the initiative and referendum procedure for measures relating to the people of the state at large.

(2) The arguments regarding the measures described in Subsection (1) shall be prepared as follows:

(a) The arguments for and against each measure shall not exceed 300 words in length and shall be printed on the same sheet of paper upon which the proposed measure is also printed, except that if the proposed measure exceeds 1,000 words in length the clerk or recorder, as the case may be, may provide a synopsis of 1,000 words or less of the proposed measure. Where a synopsis is provided, it shall be noted where a complete copy of the proposed measure is available for public review.

(b) The arguments for the measure shall be prepared by the sponsors, whether of the governing body or of a voter or voter group, except that no more than five names shall appear as sponsor. The arguments against the measure shall be prepared by opponents from among the governing body, if there be any, or from among voters requesting permission of the governing body to prepare these arguments. If more than one person or group desires to submit arguments for or against the measure, the governing body shall make the final designation, except that sponsors shall always have priority in making the argument for a measure and members of governing bodies shall always have priority over others. The requests to prepare the arguments must be presented to the governing body at least 45 days before the election at which the proposed measure is to be voted upon.

(3) The following statement shall be printed on the front cover or the heading of the first page of the printed arguments:

"The arguments for or against the proposed measure(s) are the opinions of the authors."

**History:** L. 1917, ch. 56, § 23; C.L. 1917, § 2312; R.S. 1933 & C. 1943, 25-10-23; L. 1981, ch. 102, § 3; 1981, ch. 105, § 1; 1984, ch. 68, § 56.

**Compiler's Notes.**

The 1981 amendment by chapter 102 included counties with cities and towns as having initiative and referendum powers.

The 1981 amendment by chapter 105 also included counties with cities and towns as having initiative and referendum powers; increased the time for filing opposing arguments from 20 to 30 days before the election; and added subsecs. (2) and (3).

The 1984 amendment substituted "lieutenant governor" for "secretary of state" in the first sentence of subsec. (1).

**Effective Date.**

Section 2 of Laws 1981, ch. 106 provided: "This act shall take effect on May 15, 1981."

**Cross-References.**

Voter information pamphlets, 20-11a-1 et seq.

**Conditions precedent.**

Under this section and 20-11-16, in the case of a referendum of an ordinance, the checking by the county clerk is an essential element to a petition or a section thereof requisite to require filing by the officer and require him to proceed. *Allan v. Rasmussen* (1941) 101 U 33, 117 P 2d 287.

**Words and phrases defined.**

Deviation from state initiative and referendum procedure, which might be suggested by the use of the word "similar," is limited by requirement that procedure be "as nearly

practicable" the same as that prescribed in reference of an act of the legislature. *Allan v. Raamussen* (1941) 101 U 33, 117 P 2d 7.

#### Collateral References.

Construction and application of constitutional or statutory requirement as to short

**20-11-24. Time for filing referendum petitions.** Referendum petitions against any ordinance, franchise, or resolution passed by the governing body of a county, city, or town shall be filed with the clerk or recorder, as the case may be, within 30 days after the passage of the ordinance, resolution, or franchise.

**History:** L. 1917, ch. 56, § 24; C.L. 1917, 313; R.S. 1933 & C. 1943, 25-10-24; L. 1981, 102, § 4.

#### Compiler's Notes.

The 1981 amendment inserted "county"; inserted "as the case may be"; and made minor changes in phraseology and punctuation.

#### Cross-References.

When ordinances take effect, 10-3-705, 1-712.

#### Filing requirement.

The 1977 amendment to 20-11-16 did not expressly nor impliedly repeal the 30-day filing requirement of this section, nor did it norize the filing of the referendum petition before the completion of the signature book and certification. *Riverton Citizens for Constitutional Government v. Beckstead* (1) 631 P 2d 885.

**20-11-25. Submission to people.** If any ordinance shall be proposed by initiative petition, the petition shall be filed with the clerk or recorder, as the case may be, and he shall transmit it to the next session of the governing body. The governing body shall either ordain or reject the same as proposed within 30 days thereafter, and, if the governing body shall reject proposed ordinance or amendment or shall take no action thereon, then the clerk or recorder, as the case may be, shall submit the same to the voters of the county, city, or town at the next ensuing countywide or municipal election held therein not less than 90 days after the same was first presented to the governing body. The governing body may ordain the ordinance or amendment and refer it to the people, or it may ordain the ordinance without referring it to the people, but in that case it shall be subject to referendum petition in like manner as other ordinances. If the governing body shall reject the ordinance or amendment or take no action thereon, it may ordain a competing ordinance or amendment, which shall

title, ballot title, or explanation of nature of proposal in initiative, referendum or recall petition, 106 ALR 556.

Time within which officer must perform duty to pass upon sufficiency of initiative, referendum or recall petition, 102 ALR 51.

#### Municipal referendum.

Under this and other sections of this chapter, a checking of the petition is a condition precedent to a legally sufficient petition in case of a municipal referendum. *Allan v. Raamussen* (1941) 101 U 33, 117 P 2d 287.

#### Original mandamus proceedings.

In original mandamus proceedings to compel city recorder to receive and file petition for referendum of a resolution of board of commissioners, the question of validity of resolution is not before the supreme court for review. However, upon repeal of resolution, right to require referendum election ceases. *Keigley v. Bench* (1936) 90 U 569, 63 P 2d 262.

#### Collateral References.

Statutes ⇨ 354.  
82 CJS Statutes § 129.  
42 AmJur 2d 682, 683, Initiative and Referendum §§ 33, 34.

be submitted by the clerk or recorder, as the case may be, to the people of the county, city, or town at the same election at which the initiative proposal is submitted. This competing ordinance or amendment, if any, shall be prepared by the governing body and ordained within 30 days allowed for its action on the measure proposed by initiative petition. If conflicting ordinances shall be submitted to the people at the same election and two or more of such conflicting measures shall be approved by the people, then the measure which shall have received the greatest number of affirmative votes shall be paramount in all particulars as to which there is conflict, even though such measure may not have received the greatest majority. The governing body may by ordinance order special elections to vote on such county or municipal measures.

**History:** L. 1917, ch. 56, § 25; C.L. 1917, § 2314; R.S. 1933 & C. 1943, 25-10-25; L. 1981, ch. 102, § 5.

#### Compiler's Notes.

The 1981 amendment inserted references to county throughout the section; and made minor changes in phraseology and punctuation.

#### Collateral References.

Statutes ⇨ 375.  
82 CJS Statutes § 136 et seq.  
42 AmJur 2d 689 et seq., Initiative and Referendum § 42.

Power of legislative body to amend, repeal, or abrogate initiative or referendum measure, or to enact measure defeated on referendum, 33 ALR 2d 1118.

## CHAPTER 11a

### VOTER INFORMATION ON LEGISLATION

- |            |   |
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**20-11a-1. Measures to be submitted to voters, referendum measures — Preparation of argument for adoption.** Whenever the legislature submits any measure to the voters of the state or whenever an act of the legislature is referred to the voters by referendum petition, the sponsor of the measure or act and one member of either house who voted with the majority on the submission of the measure or on the act shall be appointed by the presiding officer of the house of origin of the measure to draft an argument for the adoption of the measure. This argument shall not exceed 500 words in length. If the sponsor of the measure or act desires separate arguments to be written in favor of each person appointed, separate arguments

**"Verified names."**

This phrase means names verified by the county clerk. *Allan v. Rasmussen* (1941) 101 U 33, 117 P 2d 287.

**Withdrawal of names generally.**

Person who has signed petition may, at any time before petition has been acted upon, withdraw his name, and if timely done, his name should not be counted. *Halgren v. Welling* (1936) 91 U 16, 63 P 2d 550.

Timely personal appearance with request made to proper officer, board or individual with identity established either by personal knowledge or by proof by one familiar with

facts, or written withdrawal accompanied by proof of identity by affidavit either of signer or someone who knows identity of signatures, is sufficient to permit withdrawal of signatures from petition. *Halgren v. Welling* (1936) 91 U 16, 63 P 2d 550.

**Collateral References.**

Statutes ⇨ 314-316, 354-356.

82 CJS Statutes §§ 124, 125, 127-129.

42 AmJur 2d 681-688, Initiative and Referendum §§ 32-40.

Time within which officer must perform duty to pass upon sufficiency of initiative, referendum or recall petition, 102 ALR 51.

**20-11-17. Ballot title — Duties of attorney general and Office of Legislative Research and General Counsel.** When an initiative petition shall be declared to be sufficient by the lieutenant governor he shall forthwith transmit to the attorney general a copy of the law so proposed for initiation, and within ten days thereafter the attorney general shall provide and return to the lieutenant governor a ballot title for such measure. Whenever a referendum petition is declared sufficient, the lieutenant governor shall transmit a copy of the petition to the Office of Legislative Research and General Counsel, who shall prepare and return to him within 15 days a ballot title for the referendum. The ballot title may be distinct from the legislative title of the measure, and shall express, in not exceeding 100 words, the purpose of the measure. The ballot title shall be printed, with the number of the measure, as determined by the Office of Legislative Research and General Counsel, on the official ballot. In making such ballot title the Office of Legislative Research and General Counsel shall to the best of its ability give a true and impartial statement of the purpose of the measure, and in such language that the ballot title shall not be intentionally an argument, or likely to create prejudice, either for or against the measure. A copy of every ballot title upon being filed by the Office of Legislative Research and General Counsel with the lieutenant governor shall forthwith be served upon any of the sponsors of the petition by the lieutenant governor; such service may be by mail or telegraph. If the ballot title so furnished by the Office of Legislative Research and General Counsel is unsatisfactory or does not comply with the requirements of this section, upon motion of at least three of the sponsors of the petition, an appeal may be taken from the decision of the Office of Legislative Research and General Counsel to the supreme court. The supreme court shall thereupon examine such measures and hear arguments, and in its decision thereon shall certify to the lieutenant governor a ballot title for the measure in accord with the intent of this section. The lieutenant governor shall have the title thus certified to him certified to the county clerks to be printed on the official ballot; provided, that nothing in this chapter shall be construed to require the lieutenant governor to have the title of any proposed

law for initiation or of any measure for referendum, printed on the official ballot, unless a sufficient petition as herein provided shall have been filed in his office at least 105 days before any general election at which the proposed law or measure is to be submitted.

**History:** L. 1917, ch. 56, § 17; C.L. 1917, § 2306; R.S. 1933 & C. 1943, 25-10-17; L. 1975, ch. 57, § 13; 1984, ch. 68, § 54.

**Compiler's Notes.**

The 1975 amendment substituted "an initiative petition" for "the petition" in the first sentence; deleted "or referendum" after "initiation" in the first sentence; inserted the second sentence pertaining to a referendum petition; inserted "as determined by the legislative council" in the fourth sentence; substituted "legislative council" for "attorney general" in the fifth, sixth and seventh sentences; substituted "or of any measure for referendum" for "or the number of any measure for referendum" in the last sentence; and substituted "105 days" for "50 days" in the last sentence.

The 1984 amendment substituted "lieutenant governor" for "secretary of state" throughout the section; and substituted

**20-11-18. Repealed.****Repeal.**

Section 20-11-18 (L. 1917, ch. 56, § 18; C.L. 1917, § 2307; R.S. 1933 & C. 1943, 25-10-18; L.

"Office of Legislative Research and General Counsel" for "legislative council" throughout the section.

**Repealing Clause.**

Section 14 of Laws 1975, ch. 57 provided: "Sections 20-3-41.1 and 20-3-41.2, Utah Code Annotated 1953, as enacted by chapter 39, Laws of Utah 1967, and section 20-11-18, Utah Code Annotated 1953, as amended by chapter 36, Laws of Utah 1953, are repealed."

**Collateral References.**

Statutes ⇨ 319, 320, 359, 360.

82 CJS Statutes §§ 138-140.

42 AmJur 2d 693, Initiative and Referendum § 46.

Construction and application of constitutional or statutory requirement as to short title, ballot title, or explanation of nature of proposal in initiative, referendum or recall petition, 106 ALR 555.

1953, ch. 36, § 1), relating to publication of initiative or referendum information, was repealed by Laws 1975, ch. 57, § 14. For present provisions, see 20-11a-1 et seq.

**20-11-19. Manner of voting.** The manner of voting upon measures submitted to the people shall be as follows:

The number and ballot title as herein provided for shall be printed upon the official ballot, with the words "For" and "Against" immediately to the right thereof, each followed by a square in which the elector may place a cross to indicate his vote. Electors desiring to vote "for" shall place a cross within the square following the word "for," and those desiring to vote "against" shall place a cross within the square following the word "against."

**History:** L. 1917, ch. 56, § 19; C.L. 1917, § 2308; R.S. 1933 & C. 1943, 25-10-19.

**20-11-20. Return and canvass — Conflicting measures — Law effective on proclamation.** The votes on measures and questions submitted to the people shall be counted, canvassed, and returned by the regular boards, judges, clerks, and officers as votes for candidates are counted, canvassed, and returned, and the abstract made by the several county clerks of votes on measures shall be returned to the lieutenant governor in the

manner provided by Section 20-8-8 for abstracts of votes for state officers. The lieutenant governor shall certify to the governor the vote for and against such measures and the governor shall forthwith issue his proclamation, giving the whole number of votes cast in the state for and against each measure and question, and declaring such measures as are approved by the greatest number of affirmative votes, provided such number is a majority of those voting thereon, to be in full force and effect as the law of the state of Utah. When the governor is of the opinion that two measures, or that parts of two measures, approved by the people at the same election are entirely in conflict and opposed, he shall proclaim that measure to be law which has received the greatest number of affirmative votes, regardless of the difference in the majorities which those measures have received. Within ten days after such proclamation any qualified voter, who shall have signed the petition to submit the measure which is declared by the governor to be superseded by another measure approved at the same election, may apply to the supreme court to review the governor's decision. The court shall forthwith consider the matter and decide whether or not such measures are in conflict, and shall certify its decision, within ten days after the matter is submitted to it for decision, to the governor. The governor shall, within 30 days after his previous proclamation, proclaim all those measures approved by the people as law which the supreme court has decided not to be in conflict, and of all those which the supreme court shall have decided to be in conflict he shall proclaim as law the one which has received the greatest number of affirmative votes, regardless of difference in majorities.

**History:** L. 1917, ch. 56, § 20; C.L. 1917, 2309; R.S. 1933 & C. 1943, 25-10-10; L. 1984, ch. 68, § 55.

**Compiler's Notes.**

The 1984 amendment substituted "lieutenant governor" for "secretary of state" in the first and second sentences.

**20-11-21. Direct legislation in counties, cities, and towns.** Subject to the provisions of this chapter, the legal voters of any county, city, or town, such numbers as required in this chapter, may initiate any desired legislation and cause the same to be submitted to the governing body or to a vote of the people of the county, city, or town for approval or rejection, may require any law or ordinance passed by the governing body of the county, city, or town to be submitted to the voters thereof before the law or ordinance shall take effect.

**History:** L. 1917, ch. 55, § 21; C.L. 1917, 110; R.S. 1933 & C. 1943, 25-10-21; L. 1981, ch. 102, § 1.

**Collateral References.**

Statutes ⇄ 322, 362.  
82 CJS Statutes §§ 147, 148.  
42 AmJur 2d 713, 714, Initiative and Referendum §§ 63-65.

Determination of canvassing boards or election officials as regards counting or exclusion of ballots as subject of review by mandamus, 107 ALR 618.

**Compiler's Notes.**

The 1981 amendment inserted "county" throughout the section; substituted "governing body" for "law-making body" in two

places; and made minor changes in phraseology and punctuation.

**Construction and application.**

An ordinance adopted by city commission vacating city street must be submitted to vote of people before it becomes effective. *Provo City v. Denver & R. G. W. R. Co.* (1946) 156 F 2d 710, certiorari denied 329 US 764, 91 L Ed 658, 67 S Ct 124, citing *Keigley v. Bench* (1939) 97 U 69, 89 P 2d 480, 122 ALR 756.

**Legislative or administrative powers.**

A resolution passed by city board of commissioners directing mayor to execute an acceptance of offer from bond brokers to buy city's bonds is legislative in character; therefore, the approval or rejection of the resolution is proper subject matter for referendum. The city recorder is required to accept and file the resolution as a mere ministerial duty; he is not required to pass upon the validity of the resolution. *Keigley v. Bench* (1936) 90 U 569, 63 P 2d 262.

Initiated ordinance which authorized executive department of city to contract for erection and construction of electric power plant and distribution system with independent contractor on a cost plus basis, under and subject to terms and limitations fixed in ordinance, was a proper exercise of the legislative power by the people through the initiative. *Utah Power & Light Co. v. Provo City* (1937) 94 U 203, 74 P 2d 1191, certiorari denied 305 US 628, 83 L Ed 402, 59 S Ct 92, distinguished in 2 U 2d 319, 273 P 2d 174.

This section limits the applicability of a referendum to laws and ordinances passed by the law-making body of a city or town, and section applies only to such laws, ordinances, resolutions or motions that are legislative in character, and does not apply to those administrative in character. *Keigley v. Bench* (1939) 97 U 69, 89 P 2d 480, 122 ALR 756.

Provisions of proposed ordinance which related to the recall and refunding of bonds authorized by previous ordinance, and to change in dates of the bonds and date of principal and interest payments, were administrative in their nature and were not subject to referendum, but provision which provided for a 20-year plan of refunding, instead of a 15-year period, constituted a definite change in financial policy which was legislative in its nature and required submission to the electorate. *Keigley v. Bench* (1939) 97 U 69, 89 P 2d 480, 122 ALR 756.

**20-11-22. Petitions — Number of signers.** (1) All initiative and referendum petitions in counties, cities, and towns to be submitted must be

Since initiative and referendum laws apply only to legislative matters, the issue of the salaries of policemen and firemen could not be referred to the electorate where, by its nature, and under the terms of the city charter, the issue was administrative in character. *Shriver v. Bench* (1957) 6 U 2d 329, 313 P 2d 475.

**Repeal of council-manager charter of city.**

Even though there is no direct or express constitutional or statutory provision or council-manager charter provision that the council-manager charter of a second class city is repealable, the people have an inalienable right to repeal a charter which they had a right to adopt, and an ordinance providing for the repeal of a council-manager charter and the establishment of a commission form of government for a second class city was valid. *Provo City v. Anderson* (1961) 12 U 2d 417, 367 P 2d 457.

**Zoning ordinances.**

Although this section and 20-11-23 set forth the manner of exercising the initiative privilege, the electors may not initiate any ordinance under it. Thus the electors could not by initiative ordinance rezone a city since such procedure would not comply with the zoning statute under which they claim their power to zone, and in effect it would be attacking collaterally the very statute under which they claimed their power to zone. Until the general law governing the processes of zoning was affected by repeal or amendment by the legislature, or by referendum or initiative by the people, it guided the processes of the cities and directed the means by which it was to be accomplished. *Dewey v. Doxey-Layton Realty Co.* (1954) 3 U 2d 1, 277 P 2d 806.

The original enactment of a zoning ordinance would generally be subject to referendum; however, ordinances implementing the basic zoning enactment, such as by exceptions and variances, would generally not be subject to referendum. *Wilson v. Manning* (1982) 657 P 2d 251.

**Collateral References.**

42 AmJur 2d 655, Initiative and Referendum § 7.

**Law Reviews.**

The Local Initiative — A Proper Sounding Board for National Issues?, 1968 Utah L. Rev. 464.

be no uniformity as to the number of circulation sheets contained in the sections. The lieutenant governor shall make up the sections as specified, attaching to the front of each section a petition copy as above described, and he shall securely bind together the sheets of each section at the top thereof in such a way that the sections may be conveniently opened for signing. He shall number each section and keep a record of the numbers of all sections delivered to the sponsors.

**History:** L. 1917, ch. 56, § 12; C.L. 1917, § 2301; R.S. 1933 & C. 1943, 25-10-12; L. 1984, ch. 68, § 51.

**Compiler's Notes.**

The 1984 amendment substituted "lieutenant governor" for "secretary of state."

**20-11-13. Fees — Bids from printers — Duties of lieutenant governor.** Upon filing the application for petition copies the sponsors shall pay a fee of \$50 for all services to be performed in connection therewith. The lieutenant governor shall determine from said application (or if unable to so determine therefrom, shall notify the sponsors of such inability, whereupon they shall, by supplementary application, distinctly set out their instructions as to the same), the number of petition sections desired, and the number of circulation sheets required for each section. He shall forthwith upon such determination, which shall be made within three days after the filing of the application, solicit bids from not less than three competent printers for the printing of the required number of petition copies, together with the certificate of the lieutenant governor that the law contained thereon is a full, true, and correct copy of the law as proposed by the sponsors for initiation, or the true and correct number and title of the law as proposed for referendum. The body of the petition shall be printed in six-point type, single leaded, and the requisition for bids shall so specify. Within ten days after the filing of the application for the petition copies and circulation sheets the lieutenant governor shall notify one or more of the sponsors of the lowest and best bid received from the requisitions made, and he shall require the payment of that amount into his office before he shall proceed with the petition. The lieutenant governor shall also require the payment of \$5 per 100 for all circulation sheets furnished to the sponsors. Upon payment of such amounts the lieutenant governor shall order from the printer submitting the lowest and best bid the required number of petition copies, containing his certificate thereon as above specified. The lieutenant governor shall, within ten days after the payment of the amounts above specified, make up into sections the petition copies and circulation sheets as above provided.

**History:** L. 1917, ch. 56, § 13; C.L. 1917, 2302; R.S. 1933 & C. 1943, 25-10-13; L. 1977, h. 95, § 4; 1984, ch. 68, § 52.

**Compiler's Notes.**

The 1977 amendment increased the filing fee from \$10 to \$50; and increased the payment required for circulation sheets furnished to sponsors from 50 cents per 100 to \$5 per 100.

The 1984 amendment substituted "lieutenant governor" for "secretary of state" throughout the section.

**Mandamus.**

Mandamus was granted to compel city recorder to solicit bids for printing two proposed ordinances to repeal prior ordinances providing for construction of municipal electric plant, where recorder's sole ground of refusal was that in his opinion the proposed ordinances were unconstitutional but such unconstitutionality did not appear on their face. *Coleman v. Bench* (1938) 96 U 143, 84 P 2d 412.

**Merits of proposed law.**

The secretary of state cannot, nor can the supreme court in a mandamus proceeding, pass upon a question of merit, worth, wisdom, validity, or policy of any proposed law intended to be initiated. *White v. Welling* (1936) 89 U 335, 57 P 2d 703.

**Ministerial duty of officer.**

Duties imposed by this section are ministerial, and officer has no discretion, except insofar as to determine whether the document or instrument submitted and purporting to contain the proposed law to be initiated, has the semblance of a law, or is such a matter as is not properly the subject of the Initiative and Referendum Act. *White v. Welling* (1936) 89 U 335, 57 P 2d 703; *Coleman v. Bench* (1938) 96 U 143, 84 P 2d 412.

Officer cannot pass upon the constitutionality of any proposed law under procedure dealing with application for petition copies.

**20-11-14. Misconduct of electors and officers — Penalty.** Every person who is a qualified elector of this state may sign a petition for the referendum or for the initiation of any measure upon which he is legally entitled to vote. Any person signing any name other than his own to any petition, or knowingly signing his name more than once for the same measure at one election, or who is not at the time of signing the same a legal voter of this state, or any officer or person knowingly and willfully violating any provision of this chapter, shall be punished by a fine not exceeding \$500, or by imprisonment in the state prison not exceeding two years, or by both such fine and imprisonment.

**History:** L. 1917, ch. 56, § 14; C.L. 1917, § 2303; R.S. 1933 & C. 1943, 25-10-14.

**20-11-15. Verification of petition — Clerical errors disregarded.** Each and every sheet of the petition containing signatures shall be verified on the back thereof, as prescribed in the blank verification printed thereon, by the officer in whose presence the sheets were signed. The forms pre-

If the proposed law shows on its face that it is unconstitutional, the supreme court would refuse to mandate the officer. *White v. Welling* (1936) 89 U 335, 57 P 2d 703; *Coleman v. Bench* (1938) 96 U 143, 84 P 2d 412.

**Sponsor furnishing petitions.**

Failure of the recorder to accept printed forms, which were printed under the sponsor's direction, did not render the sponsor's petition for referendum ineffective. The form of the petition copies, certificates and circulation sheets and their binding in 15 separate sections complied with the statute in every substantial detail. Where the sections of the printed forms which were circulated were in correct form except for absence of signature of the recorder, corporate seal of the city and certificate as to the title and number of the ordinance and since no one was adversely affected in reliance on the recorder's failure to act, the petition was not invalidated by her failure to do her duty for the sponsors had done all that they could do to make the petition effective and were not defeated by recorder's failure to act. *Palmer v. Broadbent* (1953) 123 U 580, 260 P 2d 581.

**Type of print.**

Where form was printed in 5 1/4 point type instead of six-point type as required by this section, it was sufficient compliance with the statute. *Palmer v. Broadbent* (1953) 123 U 580, 260 P 2d 581.

e petition shall be sufficient, notwithstanding clerical and merely technical errors.

**History:** L. 1917, ch. 56, § 15; C.L. 1917, 104; R.S. 1933 & C. 1943, 25-10-15.

**Municipal referendum.**

This section applies to a municipal referendum. Accordingly, names of signers of petition must be checked. *Allan v. Rasmussen* (1) 101 U 33, 117 P 2d 287.

**Collateral References.**

Statutes ⇐ 312, 352.

82 CJS Statutes §§ 124, 125.

42 AmJur 2d 678, Initiative and Referendum § 30.

**20-11-16. Sufficiency of signatures — Determination and remedies.** Each section of the initiative or referendum petition when signed and verified as herein provided shall be delivered not less than 150 days before any general election to the county clerk of the county in which such sections are circulated. The county clerk shall check all the names of the signers not less than 127 days before any general election against the official registration lists of his county, and certify thereon whether or not each name is that of a duly registered voter. He shall then transmit all of the sections to the lieutenant governor, who shall check off from his record, as they are filed, the number of the sections of the petition so filed. After such a section is filed the lieutenant governor shall forthwith cause the number of names appearing on each verified circulation sheet so certified by the county clerks to be counted, and, if the number of names so counted equals or exceeds the number of names required by the provisions of this chapter, he shall mark upon the front of the petition the word "sufficient"; if the sections are not properly signed, verified, and certified to by the county clerks do not equal or exceed the number so required, he shall mark on the front of the petition the word "insufficient." The lieutenant governor shall forthwith certify to any one of the sponsors of his finding. In case his finding is "insufficient," the sponsors or any of them may demand in writing a recount of the names appearing on such petition in the presence of the sponsors or any of them. If the petition is found insufficient through lack of signers, the sponsors may, by paying the costs thereof, demand as many additional circulation sheets as they may deem necessary, and the lieutenant governor shall bind such new sheets to whatever sections of the petition the sponsors designate, and he shall allow the sponsors to withdraw any section or sections for purposes of recirculation, keeping a record of the numbers of all sections so withdrawn. If the lieutenant governor shall refuse to accept and file any petition for the initiative or for the referendum, any citizen may apply within ten days after such refusal to the supreme court for a writ of mandamus to compel him to do so. If it shall be decided by the court that such petition is legally sufficient, the lieutenant governor shall then file it, with a certified copy of the judgment rendered thereon, as of the date on which it was originally offered for filing in his office. On a finding that any petition filed is not legally sufficient, the court may enjoin the lieutenant governor and all other officers from

certifying or printing on the official ballot for the ensuing election the ballot title and numbers of such measures.

**History:** L. 1917, ch. 56, § 16; C.L. 1917, § 2305; R.S. 1933 & C. 1943, 25-10-16; L. 1977, ch. 45, § 5; 1984, ch. 68, § 53.

**Compiler's Notes.**

The 1977 amendment inserted "not less than 150 days before any general election" in the first sentence; inserted "all" in the second sentence; inserted "not less than 127 days before any general election" in the second sentence; substituted "certify" for "indicate" in the second sentence; deleted "verified" before "names appearing" near the beginning of the fourth sentence; inserted "so certified by the county clerks" and "and certified to by the county clerks" in the fourth sentence; and made minor changes in phraseology and punctuation.

The 1984 amendment substituted "lieutenant governor" for "secretary of state" throughout the section.

**Addresses of signers.**

Signatures on initiative petition, after which post-office addresses and street addresses or places of residence were omitted, could not be counted by secretary of state. *Halgren v. Welling* (1936) 91 U 16, 63 P 2d 550.

**Delivery of petition.**

The delivery to the county clerk, provided for by this section, must be performed by the sponsors. *Allan v. Rasmussen* (1941) 101 U 33, 117 P 2d 287.

**Duty of county clerk.**

Requirement that county clerk indicate on petition section sheets, opposite each signature, whether or not each name is that of a duly registered voter is mandatory. *Halgren v. Welling* (1936) 91 U 16, 63 P 2d 550.

Word "check," as used in this section, means that county clerk shall compare name of each signer on petition sheets against official registration lists of his county for purpose of determining whether or not signer is registered voter. *Halgren v. Welling* (1936) 91 U 16, 63 P 2d 550.

Where certificates of county clerks merely certified that petitioners' signatures were found correct, and no statement was made or attempted to be made that each name on attached petition was or was not that of a duly registered voter, secretary of state was without jurisdiction to find that number of qualified signers on petition as a whole was insufficient. *Halgren v. Welling* (1936) 91 U 16, 63 P 2d 550.

The duty of determining the validity of the names on the circulation sheet is reposed upon the county clerk, and the secretary of state may rely upon the certification by the county clerk. *Cope v. Toronto* (1958) 8 U 2d 255, 332 P 2d 977.

**Duty of the secretary of state.**

Where the secretary of state has relied upon the circulation sheets certified to him by the county clerk and followed the procedure set out by law for having the proposed act printed on the ballots, the law does not grant authority to the supreme court to issue a writ of mandamus to direct him to undo that which he has done. *Cope v. Toronto* (1958) 8 U 2d 255, 332 P 2d 977.

**Effect of 1977 amendment.**

The 1977 amendment to this section did not expressly or impliedly repeal 20-11-24, nor did it authorize the filing of the referendum petition before the completion of the signature check and certification. *Riverton Citizens for Constitutional Government v. Beckstead* (1981) 631 P 2d 885.

**Filing of petition.**

This section does not require city recorder to file petition for referendum where question to be submitted has ceased to exist. *Keigley v. Bench* (1936) 90 U 569, 63 P 2d 262.

If petition be filed within the time prescribed, the filing officer must not wait until expiration of such time to make his count, for if the number of signers be found insufficient by such officer, the sponsors may have additional circulation sheets issued in order to recirculate the petition. This recirculation for the purpose of securing additional qualified signers may not be done after the time for filing has expired. *Allan v. Rasmussen* (1941) 101 U 33, 117 P 2d 287.

**Recount of names.**

Where initiative petition contained over 3,000 names less than required, secretary of state could not be compelled to recount the signatures and otherwise exert efforts to make up the deficiencies. *Simons v. Monson* (1938) 95 U 552, 83 P 2d 266.

**Requirement as to checking.**

In case of a municipal referendum, the checking provided for by this section is a condition prerequisite to a locally sufficient petition. *Allan v. Rasmussen* (1) 101 U 33, 117 P 2d 287.

82 CJS Statutes §§ 145-147, 150.  
42 AmJur 2d 798, 801-805, 809, 810, Initiative and Referendum §§ 56, 58-60, 63-65.

Power of legislative body to amend, repeal, or abrogate initiative or referendum measure, or to enact measure defeated on referendum, 33 ALR 2d 1118.

**20-11-7. Procedure for direct legislation — Sponsors.** The procedure to be followed in initiating or referring any act or law shall be as follows:

An application, hereinafter known as the application for "petition copies," having annexed thereto five copies of the proposed law, shall be filed in the office of the lieutenant governor. The application shall be signed by not fewer than five persons, hereinafter designated "sponsors." The sponsors shall sign their names to the application, together with their residences, including the street and number of such residences, if they can be so designated. The sponsors shall be qualified electors of the state, and shall acknowledge their signatures under oath before some officer competent to administer oaths who is personally acquainted with them; they shall likewise be required to swear before such officer that they have voted in some general election held within the county in which they reside within three years next preceding the date of their taking the oath, and such affidavit of electoral qualification must appear on the application containing their signatures or on a paper annexed thereto.

The lieutenant governor shall inform any person making inquiry in regard thereto of the number of votes cast for governor in the next preceding general election at which a governor was elected, as the same appears from the official canvass of such election.

**History:** L. 1917, ch. 56, § 7; C.L. 1917, § 2296; R.S. 1933 & C. 1943, 25-10-7; L. 1984, ch. 68, § 46.

**Compiler's Notes.**

The 1984 amendment substituted "lieutenant governor" for "secretary of state" in two places.

**Sufficiency of application.**

If information given is sufficient to enable person of ordinary intelligence to find place of residence and establish identity of sponsor of initiative petition, it is sufficient, though containing technical error. Halgren v. Welling (1936) 91 U 16, 63 P 2d 550.

Objection to absence of reference to initiative petition in sponsor's application on

ground that such practice would render petition susceptible to withdrawal of proposed law and insertion of another was not well taken where no such withdrawal was alleged actually to have occurred. Halgren v. Welling (1938) 91 U 16, 63 P 2d 550.

**Use of abbreviations by sponsors.**

Use, on initiative petition, of abbreviation "S. L. C." after sponsor's street address to refer to Salt Lake City was only clerical or technical error. Halgren v. Welling (1936) 91 U 16, 63 P 2d 550.

**Collateral References.**

Statutes §§ 304, 305, 344, 345.  
82 CJS Statutes §§ 122, 126.

42 AmJur 2d 672, Initiative and Referendum § 22.

**20-11-8. Circulation sheets — Form of.** All the signatures to any petition for initiative or referendum shall be placed on sheets of paper known as "circulation sheets," substantially 14 inches long and 11 inches wide. Such circulation sheets shall be ruled with a horizontal line 1-¼ inches from the top. The space above such line shall remain blank and shall be for the purpose of binding. The circulation sheet shall be vertically divided

into columns. The first column shall appear at the extreme left of the sheet, be ⅝ of an inch wide, be headed with "For Office Use Only," and be subdivided with a light vertical line down the middle; the next adjacent column shall be three inches wide, headed "Registered Voter's Printed Name (must be legible to be counted)"; the next adjacent column shall be three inches wide headed, "Signature of Registered Voter"; the final column shall be 4-¾ inches wide, headed "Street Address, City, State Zip Code".

The word "Warning" shall be printed or typed at the top of each circulation sheet under the horizontal line. Below the word "Warning" the following statement shall be either printed in not less than eight-point type, single leaded, or typed in equivalent size:

"It is a felony for any one to sign any initiative or referendum petition with any other name than his own, or knowingly to sign his name more than once for the same measure, or to sign such petition when he knows he is not a registered voter."

Each sheet shall contain under said printing or typing 25 horizontally ruled lines, 7/16 of an inch apart. Upon the back of each sheet shall be printed or typed the following:

State of Utah, County of \_\_\_\_\_  
I, \_\_\_\_\_, of \_\_\_\_\_, hereby certify that I am a registered voter of this state, that all the names which appear on this sheet were signed by persons who professed to be the persons whose names appear thereon, and each of them signed his name thereto in my presence; I believe that each has printed and signed his name, and written his post-office address and residence correctly, and that each signer is a registered voter of the state of Utah.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_,

\_\_\_\_\_  
Notary public or other official title.

Upon payment of the fees hereinafter required the lieutenant governor shall furnish the number of circulation sheets requested in the application of the sponsors, and make them up into sets as hereinafter specified, according to instructions contained in the specifications.

**History:** L. 1917, ch. 56, § 8; C.L. 1917, § 2297; R.S. 1933 & C. 1943, 25-10-8; L. 1979, ch. 84, § 1; 1981, ch. 109, § 23; 1984, ch. 68, § 47.

**Compiler's Notes.**

The 1979 amendment substituted requirement that a voter certify circulation sheet before an officer competent to administer oaths for requirement that all signatures be made before such an officer and certified by

him; inserted provision allowing petitions to be typewritten; and made minor changes in phraseology.

The 1981 amendment changed the specifications for circulation sheets; inserted provisions for printing the names of signatories; substituted "registered voter" for "legal voter" throughout the section; and made minor changes in phraseology, punctuation and style.

The 1984 amendment substituted "lieutenant governor" for "secretary of state" in the last paragraph.

#### Address of signer of petition.

This section implies that post-office address and street number of signer of initiative petition should be written personally by the signer or under his authority. *Halgren v. Velling* (1936) 91 U 16, 63 P 2d 550.

Indication of post-office address or place of residence of signer of initiative petition by ditto marks is permissible. *Halgren v. Velling* (1936) 91 U 16, 63 P 2d 550.

**20-11-9. Form of initiative petition.** The following shall be substantially the form of petition for any measure proposed by the initiative:

### INITIATIVE PETITION

To the Honorable \_\_\_\_\_, Lieutenant Governor:

We, the undersigned citizens and legal voters of the state of Utah, respectfully demand that the following proposed law (here follows proposed law) shall be submitted to the legal voters (or legislature) of the state of Utah for their (or its) approval or rejection at the regular election to be held (or session commencing) on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_; and each for himself says: I have personally signed this petition; I am a legal voter of the state of Utah; my residence and post-office address are correctly written after my name.

**History:** L. 1917, ch. 56, § 9; C.L. 1917, § 2300; R.S. 1933 & C. 1943, 25-10-9; L. 1984, ch. 68, § 48.

#### Compiler's Notes.

The 1984 amendment substituted "Lieutenant Governor" for "Secretary of State."

#### Initiative petition.

Where initiative petition contained over 3,000 names less than required, secretary of

#### Recount of signatures.

Where initiative petition contained over 3,000 names less than required, secretary of state could not be compelled to recount the signatures and otherwise exert efforts to make up the deficiencies. *Simons v. Monson* (1938) 95 U 552, 83 P 2d 266.

#### Collateral References.

Statutes ⇄ 306, 307, 309, 311, 312, 346, 347, 349, 351, 352.

82 CJS Statutes §§ 123-125, 131.

42 AmJur 2d 676-679, Initiative and Referendum §§ 27-30.

state could not be compelled to recount the signatures and otherwise exert efforts to make up the deficiencies. *Simons v. Monson* (1936) 95 U 552, 83 P 2d 266.

#### Collateral References.

Statutes ⇄ 304, 308.

82 CJS Statutes § 122.

42 AmJur 2d 672, Initiative and Referendum § 22.

**20-11-10. Form of referendum petition.** The following shall be substantially the form of petition for the referendum to the electors of any measure passed by the legislature:

### PETITION FOR REFERENDUM

To the Honorable \_\_\_\_\_, Lieutenant Governor:

We, the undersigned citizens and legal voters of the state of Utah, respectfully order that senate (or house) bill No. \_\_\_\_\_, entitled (title \_\_\_\_\_), and, if the petition is against less than the whole act, set forth here part or parts (which the referendum is sought), passed by the \_\_\_\_\_ session of \_\_\_\_\_ legislature of the state of Utah, be referred to the

people of the state of Utah for their approval or rejection at the regular election to be held on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_; and each for himself says: I have personally signed this petition; I am a legal voter of the state of Utah; my residence and post-office address are correctly written after my name.

**History:** L. 1917, ch. 56, § 10; C.L. 1917, § 2299; R.S. 1933 & C. 1943, 25-10-10; L. 1984, ch. 68, § 49.

#### Compiler's Notes.

The 1984 amendment substituted "Lieutenant Governor" for "Secretary of State."

#### Collateral References.

Statutes ⇄ 344, 347.

82 CJS Statutes § 122.

42 AmJur 2d 672, Initiative and Referendum § 22.

**20-11-11. Printing of petitions.** Upon payment of the fees as hereinafter specified the lieutenant governor shall cause to be printed copies of the form of petition above set out, properly completed by inclusion of the matter required, sufficient in number to fulfill the requirement of the sponsors as designated by their application for petition copies.

When arriving at the number of circulation sheets and petition copies which they may require the sponsors shall specially take into consideration the provisions of Section 20-11-12.

**History:** L. 1917, ch. 56, § 11; C.L. 1917, § 2300; R.S. 1933 & C. 1943, 25-10-11; L. 1984, ch. 63, § 50.

#### Compiler's Notes.

The 1984 amendment substituted "lieutenant governor" for "secretary of state."

#### Mandamus.

Mandamus was granted to compel city recorder to solicit bids for printing two proposed ordinances to repeal prior ordinances providing for construction of municipal electric plant, where recorder's sole ground of refusal was that in his opinion the proposed ordinances were unconstitutional but such unconstitutionality did not appear on their face. *Coleman v. Bench* (1938) 96 U 143, 84 P 2d 412.

#### Sponsors supplying forms.

All of the detailed procedure provided for in the statute for obtaining these printed forms is mere formality since as long as the prescribed forms are supplied, who arranged for and the procedure followed in having them printed have no substantial effect on the result. The only purpose of the detailed procedure is for the benefit of the sponsors of a referendum. The sponsors have a right to waive these provisions and supply these printed forms through their own arrangements and at their own expense, which they must pay in any event. As long as the forms furnished meet the statutory requirements it is the duty of the recorder to accept them. *Palmer v. Broadbent* (1953) 123 U 580, 260 P 2d 581.

#### Collateral References.

Statutes ⇄ 304, 344.

82 CJS Statutes § 126.

**20-11-12. Sections of circulation sheets.** The petition, for purpose of circulation, may be divided into sections, each section to contain not more than 50 circulation sheets. No section, however, shall be circulated for signatures, unless it has attached to the front sheet thereof a certified petition copy, as described in Section 20-11-11. The sponsors shall set out in their application for petition copies the number of sections into which each petition is to be divided for circulation, and the number of circulation sheets which it is to contain.

districts as established in this act of the 1981 first special session of the Utah legislature.

(2) Each county clerk shall obtain copies of the official maps for his or her county from the lieutenant governor's office. Each county clerk shall, before all elections and pursuant to Section 17-5-18, establish the voting districts within each of the districts.

(3) In questions of interpretation of the census maps and census district information of this state, the official maps on file at the lieutenant governor's office shall serve as the indication of the legislative intent in drawing the district boundaries.

**History:** C. 1953, 20-10-5, enacted; L. 1981 (1st S.S.), ch. 4, § 3.

**Title of Act.**

An act relating to congressional reapportionment; providing for three congressional districts; establishing the first, second and third congressional districts; enacting supplemental provisions; and providing effective dates.

This act amends section 20-10-3, Utah Code Annotated 1953; enacts section 20-10-5, Utah Code Annotated 1953; and repeals and

reenacts section 20-10-4, Utah Code Annotated 1953, as last amended by chapter 38, Laws of Utah 1971. — Laws 1981 (1st S.S.) ch. 4.

**Effective Date.**

Section 4 of Laws 1981 (1st S.S.), ch. 4 provided: "This act shall take effect on January 1, 1982, for the purposes of nominating and electing representatives in the Congress of the United States. For all other purposes this act shall take effect on January 3, 1983." Effective January 17, 1982. Failed to obtain two-thirds vote required for earlier effect.

## CHAPTER 11

### DIRECT LEGISLATION ELECTIONS

**Action**

- 11-1. Initiative and referendum authorized.
- 11-2. Initiative — By petition to legislature.
- 11-3. Submission to people.
- 11-4. Referendum by petition.
- 11-5. Effective date of legislation.
- 11-6. Effective date of direct legislation — No veto.
- 11-7. Procedure for direct legislation — Sponsors.
- 11-8. Circulation sheets — Form of.
- 11-9. Form of initiative petition.
- 11-10. Form of referendum petition.
- 11-11. Printing of petitions.
- 11-12. Sections of circulation sheets.
- 11-13. Fees — Bids from printers — Duties of lieutenant governor.
- 11-14. Misconduct of electors and officers — Penalty.
- 11-15. Verification of petition — Clerical errors disregarded.
- 11-16. Sufficiency of signatures — Determination and remedies.
- 11-17. Ballot title — Duties of attorney general and Office of Legislative Research and General Counsel.
- 11-18. Repealed.
- 11-19. Manner of voting.
- 11-20. Return and canvass — Conflicting measures — Law effective on proclamation.
- 11-21. Direct legislation in counties, cities, and towns.
- 11-22. Petitions — Number of signers.
- 11-23. Procedure — Arguments.
- 11-24. Time for filing referendum petitions.
- 11-25. Submission to people.

20-11-1. Initiative and referendum authorized. Legal voters of this state in the number required herein may, by joining in a petition for that purpose filed in the office of the lieutenant governor as hereinafter provided, initiate any desired legislation, and cause the same to be submitted to the legislature or to a vote of the people for approval or rejection, or may require any law passed by the legislature (except those laws passed by a two-thirds vote of the members elected to each house of the legislature) to be referred to the voters before such law shall take effect; provided, that in order to make any such petition mandatory a majority of all the counties of the state must each furnish signatures of legal voters not less in number than the percentages herein required.

**History:** L. 1917, ch. 56, § 1; C.L. 1917, § 2290; R.S. 1933 & C. 1943, 25-10-1; L. 1984, ch. 68, § 42.

**Compiler's Notes.**

The 1984 amendment substituted "lieutenant governor" for "secretary of state."

**Cross-References.**

Authorized by Constitution, Const. Art. VI, § 1.

Enacting clause, 36-10-1.

Municipal government, optional form proposed by initiative, 10-3-1203.

Voter information pamphlets, 20-11a-1 et seq.

**Construction and application.**

Officers charged with administration of this law should interpret it, if possible, so as to sustain it and make its purposes effective, and bring about the purposes intended by the legislature. *Halgren v. Welling* (1936) 91 U 16, 63 P 2d 550.

While technical construction should not be invoked to hinder or defeat the right of direct legislation by the people, procedure clearly indicated by the legislature may not be varied in such a way as to defeat some of its salutary features. *Allan v. Rasmussen* (1941) 101 U 33, 117 P 2d 287.

The act authorizing initiative legislation receives a liberal construction to effectuate its purpose and all doubts as to technical deficiencies or failure to comply with the exact letter of procedure will be resolved in favor of the accomplishment of that purpose. *Cope v. Toronto* (1958) 8 U 2d 255, 332 P 2d 977.

**Resolutions of people.**

Resolutions by the people are not provided for in the Initiative and Referendum Act. *White v. Welling* (1936) 89 U 335, 57 P 2d 703.

**Collateral References.**

Statutes § 301 et seq.

82 CJS Statutes §§ 115-151.

42 AmJur 2d 649 et seq., Initiative and Referendum § 1 et seq.

Construction and application of constitutional or statutory provisions expressly excepting certain laws from referendum, 146 ALR 284, 100 ALR 2d 314.

Construction and application of constitutional or statutory requirement as to short title, ballot title, or explanation of nature of proposal in initiative, referendum or recall petition, 106 ALR 555.

Initiative statute as in effect constitutional amendment, 62 ALR 1352.

Power of legislative body to amend, repeal, or abrogate initiative or referendum measure, or to enact measure defeated on referendum, 33 ALR 2d 1138.

Taxpayer's capacity to maintain suit to enjoin submission of initiative, referendum, or recall measure to voters, 6 ALR 2d 557.

Withdrawal: right of signer of petition or remonstrance to withdraw therefrom or revoke withdrawal, and time therefore, 27 ALR 2d 604.

**Law Reviews.**

Amendment of Acts Approved by the People, 12 Iowa L. Rev. 272.

Constitutionality of a Delegation of Legislative Power to the People, 17 Iowa L. Rev. 239.

The Local Initiative — A Proper Sounding Board for National Issues?, 1968 Utah L. Rev. 464.

The Utah Recall Proposal, 1976 Utah L. Rev. 29.

20-11-2. Initiative — By petition to legislature. Upon the presentation to the lieutenant governor, at any time not less than ten days before

the commencement of any regular session of the legislature, of an initiative petition, signed as herein provided by legal voters equal in number to 5% of all the votes cast for all candidates for governor at the next preceding general election at which a governor was elected and verified and certified to as provided in this chapter, the lieutenant governor shall transmit the same to the legislature as soon as it convenes and organizes. The law proposed by such petition shall either be enacted or rejected without change or amendment by the legislature. If any law proposed by such petition shall be enacted by the legislature, it shall be subject to referendum petition in like manner as other laws. If any law so petitioned for is not enacted by the legislature, it shall be submitted to a vote of the people at the next ensuing general election; provided, sufficient additional signatures to the petition are first obtained to bring the total number of signatures up to 10% of all votes cast for all candidates for governor at the next preceding general election at which a governor was elected, these additional signatures also to be verified and certified as provided in this chapter.

**History:** L. 1917, ch. 56, § 2; C.L. 1917, § 2291; R.S. 1933 & C. 1943, 25-10-2; L. 1977, ch. 95, § 1; 1984, ch. 68, § 43.

**Compiler's Notes.**

The 1977 amendment inserted "and verified and certified to as provided in this chapter"

in the first sentence; and added "these additional signatures also to be verified and certified as provided in this chapter" to the end of the section.

The 1984 amendment substituted "lieutenant governor" for "secretary of state" in two places in the first sentence.

**20-11-3. Submission to people.** Upon the presentation to the lieutenant governor, at any time not less than four months before any general election, of an initiative petition, signed as herein provided by legal voters equal in number to 10% of all the votes cast for all candidates for governor at the next preceding general election at which a governor was elected, proposing a law set forth therein and verified and certified to as provided in this chapter, the lieutenant governor shall submit the law so proposed to a vote of the people at the next ensuing general election.

**History:** L. 1917, ch. 56, § 3; C.L. 1917, § 2292; R.S. 1933 & C. 1943, 25-10-3; L. 1977, ch. 95, § 2; 1984, ch. 68, § 44.

**Compiler's Notes.**

The 1977 amendment inserted "and verified and certified to as provided in this chapter." The 1984 amendment substituted "lieutenant governor" for "secretary of state" in two places.

**Recount of signatures.**

Where initiative petition contained over 3,000 names less than required, secretary of state could not be compelled to recount the signatures and otherwise exert efforts to make up the deficiencies. *Simons v. Monson* (1938) 95 U 552, 83 P 2d 266.

**Collateral References.**

Statutes ⇨ 321.  
82 CJS Statutes § 137.  
42 AmJur 2d 689, Initiative and Referendum § 42.

**20-11-4. Referendum by petition.** Upon the presentation to the lieutenant governor, within 60 days after the final adjournment of the legislature, of a petition signed as herein provided by legal voters equal in

number to 10% of all the votes cast for all candidates for governor at the next preceding general election at which a governor was elected and verified and certified to as provided in this chapter, asking that any act, or section or part of any act, of the legislature be submitted to the people for their approval or rejection, the lieutenant governor shall submit such act, or section or part of such act, to the people for their approval or rejection at the next succeeding general election.

**History:** L. 1917, ch. 56, § 4; C.L. 1917, § 2293; R.S. 1933 & C. 1943, 25-10-4; L. 1977, ch. 95, § 3; 1984, ch. 68, § 45.

**Compiler's Notes.**

The 1977 amendment inserted "and verified and certified to as provided in this chapter."

The 1984 amendment substituted "lieutenant governor" for "secretary of state" in two places.

**Municipal referendum.**

This section applies to a municipal referendum. *Allan v. Rasmussen* (1941) 101 U 33, 117 P 2d 287.

**Collateral References.**

Statutes ⇨ 344.  
82 CJS Statutes §§ 122-131.  
42 AmJur 2d 754 et seq., Initiative and Referendum § 22 et seq.

Referendum of question of repeal of statute in absence of constitutional requirement, 76 ALR 1062.

Withdrawal: right of signer of petition or remonstrance to withdraw therefrom or revoke withdrawal, and time therefor, 126 ALR 1031, 27 ALR 2d 604.

**20-11-5. Effective date of legislation.** No act passed by the legislature shall go into effect until 60 days after the final adjournment of the session of the legislature which passed it, except laws passed by a two-thirds vote of the members elected to each house of the legislature. When a referendum petition has been filed, the act shall not go into effect, unless and until it shall be approved by a vote of the people at the next ensuing general election.

**History:** L. 1917, ch. 56, § 5; C.L. 1917, § 2294; R.S. 1933 & C. 1943, 25-10-5.

**Municipal referendum.**

This section makes it necessary that expedition should be used in submitting an ordinance to vote under this chapter. *Allan v. Rasmussen* (1941) 101 U 33, 117 P 2d 287.

**Collateral References.**

Statutes ⇨ 357.  
82 CJS Statutes §§ 145, 146.  
42 AmJur 2d 713, 714, Initiative and Referendum §§ 64, 65.

Power of legislative body to amend, repeal, or abrogate initiative or referendum measure, or to enact measure defeated on referendum, 33 ALR 2d 1118.

**20-11-6. Effective date of direct legislation — No veto.** Any act or law submitted to the people by either initiative or referendum petition and approved by a majority of the votes cast thereon at any election shall take effect five days after the date of the official proclamation of the vote by the governor. No act or law adopted by the people shall be subject to veto by the governor; but acts and laws approved by the people under the initiative or referendum provisions hereof may be amended by the legislature at any subsequent session thereof.

**History:** L. 1917, ch. 56, § 6; C.L. 1917, § 2295; R.S. 1933 & C. 1943, 25-10-6.

**Collateral References.**  
Statutes ⇨ 375.

ATTACHMENT B

# Alaska State Legislature

Legislative Research Agency




130 Seward Street, Suite 218  
Juneau, Alaska 99801-2196

Phone: (907) 465-3991  
Fax: (907) 463-3351

January 31, 1992

## MEMORANDUM

TO:

FROM: Gordon S. Harrison, Director 

RE: Vote Totals on Recent Initiative Measures  
Research Request 92.144

You asked for the vote totals, by senate district, for each of the initiative measures appearing on the ballot in the last three general elections.

Initiative measures appear on the ballot in primary elections as well as general elections. This is because the constitution requires the lieutenant governor to put certified initiative measures on the ballot "for the first statewide election held more than one hundred twenty days after adjournment of the legislative session following the filing" (Article XI, Section 4). As it happens, there were initiative measures on the primary ballots in 1986 and 1990. We have included these in our analysis.

Below is a summary of the initiative measures that appeared on the primary and general election ballots in 1986, 1988 and 1990. Vote totals by senate district are shown on the accompanying table.

### 1986 Primary

#### Nuclear Weapons Freeze (Ballot Measure No. 1)

This measure directs the governor to conduct the state's affairs in conformity with the objectives of nuclear weapons control and reduction (approved).

### 1988 General Election

#### Civil Liability (Ballot Measure No. 2)

This tort reform measure would make each party liable only for damages equal to his or her share of fault (approved).

**VOTE TOTALS BY ELECTION DISTRICTS FOR BALLOT INITIATIVES**  
(1986, 1988, 1990)

Senate District	Primary 1986		General 1988				Primary 1990				General 1990	
	Nuclear Freeze FOR	AGAINST	Civil Liability FOR	AGAINST	Community Colleges FOR	AGAINST	Alaska Railroad FOR	AGAINST	Gambling FOR	AGAINST	Marijuana FOR	AGAINST
A	2,609	2,001	6,142	1,555	3,209	4,156	969	3,794	1,474	3,479	4,700	2,967
B	3,331	1,974	6,464	1,877	3,519	4,504	1,760	4,059	2,173	3,909	4,550	3,843
C	6,671	3,697	8,266	3,718	2,619	9,248	2,526	6,536	2,703	6,777	6,019	6,440
D	4,538	3,616	7,739	3,242	4,259	6,439	1,673	5,975	2,540	5,278	6,014	5,130
E	9,728	7,256	17,041	6,444	9,974	12,866	4,285	13,866	6,988	11,383	13,509	11,621
F	9,453	6,734	15,532	5,948	9,829	11,308	2,908	13,836	5,552	11,423	12,510	9,699
G	7,554	4,848	11,742	5,003	8,137	8,337	2,274	10,365	4,509	8,245	8,515	8,472
H	6,410	4,303	10,087	4,790	7,818	6,736	2,081	8,338	3,704	6,819	7,400	6,876
I	7,760	6,245	15,653	6,289	10,881	10,668	2,827	13,114	5,564	10,522	12,987	8,621
J	3,836	3,506	9,013	2,952	4,999	6,586	2,043	6,092	3,649	4,619	7,223	4,389
K	9,484	5,945	16,169	5,690	7,332	14,381	2,833	11,756	6,070	8,748	10,542	10,424
L	3,064	2,376	4,666	1,943	3,573	2,701	2,051	3,070	2,003	3,149	3,715	3,359
M	3,060	2,621	4,201	2,150	3,817	2,280	2,040	3,311	1,922	3,469	3,620	3,176
N	2,828	2,002	5,796	2,605	3,506	4,509	1,342	3,157	1,594	3,007	3,959	3,627
	<u>80,326</u>	<u>57,124</u>	<u>138,511</u>	<u>54,206</u>	<u>83,472</u>	<u>104,719</u>	<u>31,612</u>	<u>107,269</u>	<u>50,445</u>	<u>90,827</u>	<u>105,263</u>	<u>88,644</u>

Source: Division of Elections, "Official Returns," 1986, 1988, 1990.

Prepared by the Legislative Research Agency, January 1992 (92.144).

# **CORRECTION**

**THIS DOCUMENT  
HAS BEEN REPHOTOGRAPHED  
TO ASSURE LEGIBILITY**

# Alaska State Legislature

Legislative Research Agency




130 Seward Street, Suite 218  
Juneau, Alaska 99801-2196

Phone: (907) 465-3991  
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January 31, 1992

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### 1988 General Election

#### Civil Liability (Ballot Measure No. 2)

This tort reform measure would make each party liable only for damages equal to his or her share of fault (approved).

January 31, 1992  
Page 2

Independent Community College System (Ballot Measure No. 3)

- This law would create a state community college system separate from the University of Alaska (defeated).

1990 Primary Election

Related to Alaska Railroad Operations (Ballot Measure No. 1)

- This law would prohibit the Alaska Railroad from transporting freight between Alaska and other states (defeated).

Alaska Gambling Board (Ballot Measure No. 2)

- This law would allow gambling by local option (defeated)

1990 General Election

Marijuana Law Amendments (Ballot Measure No. 2)

- This law would criminalize the possession and use of small amounts of marijuana in the home (approved)

I hope this information is useful. If you have any questions, please contact this agency.

Attachment

**VOTE TOTALS BY ELECTION DISTRICTS FOR BALLOT INITIATIVES**  
(1986, 1988, 1990)

Senate District	Primary 1986		General 1988				Primary 1990				General 1990	
	Nuclear Freeze		Civil Liability		Community Colleges		Alaska Railroad		Gambling		Marijuana	
	FOR	AGAINST	FOR	AGAINST	FOR	AGAINST	FOR	AGAINST	FOR	AGAINST	FOR	AGAINST
A	2,609	2,001	6,142	1,555	3,209	4,156	969	3,794	1,474	3,479	4,700	2,967
B	3,331	1,974	6,464	1,877	3,519	4,504	1,760	4,059	2,173	3,909	4,550	3,843
C	6,671	3,697	8,266	3,718	2,619	9,248	2,526	6,536	2,703	6,777	6,019	6,440
D	4,538	3,616	7,739	3,242	4,259	6,439	1,673	5,975	2,540	5,278	6,014	5,130
E	9,728	7,256	17,041	6,444	9,974	12,866	4,285	13,866	6,988	11,383	13,509	11,621
F	9,453	6,734	15,532	5,948	9,829	11,308	2,908	13,836	5,552	11,423	12,510	9,699
G	7,554	4,848	11,742	5,003	8,137	8,337	2,274	10,365	4,509	8,245	8,515	8,472
H	6,410	4,303	10,087	4,790	7,818	6,736	2,081	8,338	3,704	6,819	7,400	6,876
I	7,760	6,245	15,653	6,289	10,881	10,668	2,827	13,114	5,564	10,522	12,987	8,621
J	3,836	3,506	9,013	2,952	4,999	6,586	2,043	6,092	3,649	4,619	7,223	4,389
K	9,484	5,945	16,169	5,690	7,332	14,381	2,833	11,756	6,070	8,748	10,542	10,424
L	3,054	2,376	4,666	1,943	3,573	2,701	2,051	3,070	2,003	3,149	3,715	3,359
M	3,060	2,621	4,201	2,150	3,817	2,280	2,040	3,311	1,922	3,469	3,620	3,176
N	2,828	2,002	5,796	2,605	3,506	4,509	1,342	3,157	1,594	3,007	3,959	3,627
	<u>80,326</u>	<u>57,124</u>	<u>138,511</u>	<u>54,206</u>	<u>83,472</u>	<u>104,719</u>	<u>31,612</u>	<u>107,269</u>	<u>50,445</u>	<u>90,827</u>	<u>105,263</u>	<u>88,644</u>

Source: Division of Elections, "Official Returns," 1986, 1988, 1990.

Prepared by the Legislative Research Agency, January 1992 (92.144).