



OFFICE OF ATTORNEY GENERAL

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JUN 05 2017

S.D. SEC. OF STATE

MARTY J. JACKLEY
ATTORNEY GENERAL

CHARLES D. McGUIGAN
CHIEF DEPUTY ATTORNEY GENERAL

HAND DELIVERED

June 5, 2017

Hon. Shantel Krebs
Secretary of State
500 E. Capitol
Pierre, SD 57501

RE: **Attorney General's Statement for initiated constitutional amendment
(regarding initiated and referred measures)**

Dear Secretary Krebs,

This Office received a proposed initiated constitutional amendment that the sponsor will seek to place on the November 2018 general election ballot. Enclosed is a copy of the constitutional amendment, in final form, that was submitted to this Office. In accordance with SDCL 12-13-25.1, I hereby submit the Attorney General's Statement with respect to this amendment.

By copy of this letter, I am providing a copy of the Attorney General's Statement to the sponsor of the constitutional amendment pursuant to SDCL 12-13-25.1.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Marty Jackley", with a long horizontal flourish extending to the right.

Marty J. Jackley
ATTORNEY GENERAL

MJJ/PA/lde
Enc.

cc/enc.: Roxanne Weber
Jason Hancock, Director of LRC

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CONSTITUTIONAL AMENDMENT

ATTORNEY GENERAL'S STATEMENT

Title: An initiated amendment to the South Dakota Constitution regarding initiated and referred measures.

Explanation:

Currently, most laws enacted by the Legislature or a municipality may be referred to a vote of the people. Laws that cannot be referred are those necessary for public peace, health or safety, or for the support of government and its existing public institutions, including laws containing an emergency clause (with an immediate effective date). The amendment removes this restriction and permits referral of all laws except general appropriation bills.

Under the amendment, if an initiated or referred measure is approved by voters and becomes law, it cannot be repealed or amended by the Legislature for 7 years, except by a two-thirds vote of each legislative chamber. This restriction likewise applies to municipal governing bodies.

If the Legislature enacts certain laws changing the initiative, referendum, or constitutional amendment process, those laws must be referred.

The current Constitution establishes a minimum number of petition signatures required to propose a constitutional amendment: at least 10% of the total votes cast in the last governor's election. Under this amendment, that number becomes a maximum ("cap") instead.

Some of the amendment's provisions lack clarity and may conflict with existing state and federal election laws. Judicial or legislative clarification may be necessary.

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Section 1: That Article III, Section 1 of the Constitution of the State of South Dakota be amended to read as follows:

§1. The legislative power of the state shall be vested in a Legislature which shall consist of a senate and house of representatives. However, the people expressly reserve to themselves the right to propose measures, which shall be submitted to a vote of the electors of the state, and also the right to require that any laws which the Legislature may have enacted shall be submitted to a vote of the electors of the state before going into effect, except ~~such laws as may be the general appropriation bill.~~ A law enacted by the Legislature that is necessary for the immediate preservation of the public peace, health or safety, or support of the state government and its existing public institutions may be referred within ninety days of the law going into effect. A law enacted with an emergency clause but referred to a public vote shall remain in effect until the law is voted upon by the people. If a law enacted with an emergency clause is rejected by a majority vote in a general or special election, the law is repealed. Not more than five percent of the qualified electors of the state shall be required to invoke either the initiative or the referendum.

If a majority of votes cast upon an initiated or referred measure are affirmative, the measure shall be enacted. An initiated or referred measure which is approved is effective thirty days after the election. If conflicting measures are approved, the measure receiving the highest number of affirmative votes shall be law. A measure approved by the electors may not be repealed or amended by the Legislature for seven years from its effective date, except by a two-thirds vote of the members elected to each house.

This section ~~shall~~ may not be construed so as to deprive the Legislature or any member thereof of the right to propose any measure. The veto power of the Executive ~~shall~~ may not be exercised as to measures referred to a vote of the people. This section ~~shall apply~~ also applies to municipalities. The enacting clause of all laws approved by vote of the electors of the state shall be: "Be it enacted by the people of South Dakota." The Legislature shall make suitable provisions for carrying into effect the provisions of this section.

Section 2: That Article III of the Constitution of the State of South Dakota be amended by adding a new section to read as follows:

§33. The Legislature shall refer to a vote of the electors of the state any law effectively changing the number of electors required to submit an initiated measure, referred law, or constitutional amendment to a public vote; the time available for electors to circulate an initiative, referendum, or constitutional amendment petition; or the number of electors who must vote to pass an initiated measure, referred law, or constitutional amendment. No law changing the criteria enumerated in this section may take effect until after that law has received a majority vote in a general or special election.

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Section 3: That Article XXIII, Section 1 of the Constitution of the State of South Dakota be amended to read as follows:

§1. Amendments to this Constitution may be proposed by initiative or by a majority vote of all members of each house of the Legislature. An amendment proposed by initiative shall require a petition signed by qualified voters, ~~equal in number to at least~~ A number of qualified electors of the state not greater than ten percent of the total votes cast for Governor in the last gubernatorial election shall be required to sign the petition to submit an amendment to a vote of the electors of the state. The petition containing the text of the proposed amendment and the names and addresses of its sponsors shall be filed at least one year before the next general election at which the proposed amendment is submitted to the voters. A proposed amendment may amend one or more articles and related subject matter in other articles as necessary to accomplish the objectives of the amendment.