



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-4951/1
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2021 SENATE JOINT RESOLUTION 76

November 11, 2021 - Introduced by Senators SMITH, AGARD and WIRCH, cosponsored by Representatives HEBL, DOYLE, HONG, OHNSTAD, SHANKLAND, SHELTON, SINICKI, SUBECK and VRUWINK. Referred to Committee on Veterans and Military Affairs and Constitution and Federalism.

1 **To amend** section 1 of article IV, section 17 (2) of article IV and section 10 (1) (b) of
2 article V; and **to create** section 7 of article III, section 17 (4) of article IV, section
3 17 (5) of article IV, section 17 (6) of article IV and section 17 (7) of article IV of
4 the constitution; **relating to:** reserving to the people the power of referendum
5 to reject acts of the legislature and the power of initiative to propose and
6 approve at an election laws and constitutional amendments (first
7 consideration).

Analysis by the Legislative Reference Bureau

This constitutional amendment, proposed to the 2021 legislature on first consideration, creates a petition process by which the people may propose and approve laws and constitutional amendments at an election and creates a referendum process by which the people may reject an act of the legislature.

REFERENDUM

The amendment provides that no act may become effective until at least 120 days after the act is published. During that period, the people may file a petition with the commission that administers state elections (Elections Commission) for a referendum to reject the act, a section of the act, or an item of appropriation in the act. The amendment requires the legislature to establish the Elections Commission.

A petition for referendum must be signed by qualified electors equaling at least 4 percent of the vote cast for the office of governor at the last preceding gubernatorial

election and must be filed with the Elections Commission within 90 days after the date of publication of the act.

After validating a petition's signatures, the Elections Commission is required to order a referendum at the next general election occurring at least 120 days after the petition was filed with the Elections Commission. No act or part of an act subject to the petition may go into effect unless a majority of those voting on the referendum approve it. If the petition is against a part of an act, the remainder of the act is not prevented from going into effect. No act or part of an act rejected in a referendum may be reenacted during the legislative session in which it was rejected.

INITIATIVE

The amendment further provides that the people may propose, by petition filed with the Elections Commission, laws and constitutional amendments for a vote at an election. The petition must satisfy all of the following conditions:

1. If a petition for an initiative law, be signed by qualified electors equaling at least 6 percent of the vote cast for the office of governor at the last preceding gubernatorial election.

2. If a petition for an initiative constitutional amendment, be signed by qualified electors equaling at least 8 percent of the vote cast for the office of governor at the last preceding gubernatorial election.

3. Include the full text of the proposed law or constitutional amendment prepared in proper form. Upon request by any qualified elector, the Elections Commission is required to have the proposed law or constitutional amendment drafted in proper form and made available to the public. The proposed law or amendment must embrace no more than one subject, and that subject must be expressed in the title.

4. Be filed with the Elections Commission not less than 120 days before the election at which the proposed law or constitutional amendment is to be voted upon.

Similar to the process for a referendum, after verifying an initiative petition's signatures, the Elections Commission is required to order the submission of the initiative law or constitutional amendment to the qualified electors of the state for their approval or rejection at the next succeeding general election occurring at least 120 days after the petition was filed with the Elections Commission.

If approved by a majority of the qualified electors voting at the election, an initiative law or constitutional amendment goes into effect on the 30th day after the date the Elections Commission certifies the election results, unless a different effective date is specified in the initiative. The legislature may not repeal or amend an initiative law for the two years immediately succeeding its publication and may not repeal or amend an initiative law except by a vote of two-thirds of all members elected to each house. If an initiative law or constitutional amendment fails to pass at the election, substantially the same initiative law or amendment, as determined by the Elections Commission, may not be considered again by voters under the initiative process for at least five years.

SECOND CONSIDERATION AND RATIFICATION

A proposed constitutional amendment requires adoption by two successive legislatures, and ratification by the people, before it can become effective.

1 ***Resolved by the senate, the assembly concurring, That:***

2 **SECTION 1.** Section 7 of article III of the constitution is created to read:

3 [Article III] Section 7. The legislature shall establish by law a commission to
4 administer state elections.

5 **SECTION 2.** Section 1 of article IV of the constitution is amended to read:

6 [Article IV] Section 1. The legislative power, except for the initiative and
7 referendum powers reserved to the people, shall be vested in a senate and assembly.

8 **SECTION 3.** Section 17 (2) of article IV of the constitution is amended to read:

9 [Article IV] Section 17 (2) No Except as provided under sub. (6) (c), no law shall
10 be enacted except by bill. No law shall be in force until published.

11 **SECTION 4.** Section 17 (4) of article IV of the constitution is created to read:

12 [Article IV] Section 17 (4) No act passed by the legislature may take effect
13 before the 120th day after the date of publication of the act.

14 **SECTION 5.** Section 17 (5) of article IV of the constitution is created to read:

15 [Article IV] Section 17 (5) (a) The people reserve to themselves the power to
16 approve or reject at a referendum any act of the legislature or part of an act as
17 provided in this subsection. The people may petition for a referendum on the passage
18 of an act, one or more sections of an act, or one or more items of appropriation in an
19 act. The petition for a referendum shall satisfy all of the following conditions:

20 1. Be signed by qualified electors equaling at least 4 percent of the vote cast for
21 the office of governor at the last preceding gubernatorial election.

1 2. Be filed with the commission administering state elections on or before the
2 90th day after the date of publication of the act.

3 (b) All signatures for a petition submitted under par. (a) must be made on paper.
4 After verifying the sufficiency of the signatures for a petition, the commission
5 administering state elections shall order the submission of the act or each act section
6 or each item of appropriation in the petition to the qualified electors of the state for
7 their approval or rejection at the next succeeding general election occurring
8 subsequent to 120 days after the filing of the petition.

9 (c) No act of the legislature, section of an act, or item of appropriation subject
10 to referendum under this subsection shall go into effect unless approved by a
11 majority of the qualified electors voting at the referendum. If a referendum petition
12 is filed against a part of an act, the remainder of the act shall not thereby be
13 prevented or delayed from going into effect.

14 (d) No act of the legislature or part of an act rejected in a referendum may be
15 reenacted during the legislative session in which it was rejected.

16 **SECTION 6.** Section 17 (6) of article IV of the constitution is created to read:

17 [Article IV] Section 17 (6) (a) The people reserve to themselves the power of
18 initiative to propose laws and amendments to this constitution and to approve or
19 reject them at an election independently of the legislature as provided in this
20 subsection. The people may propose an initiative law or constitutional amendment
21 by petition for a vote of the people on the passage of the law or ratification of the
22 amendment. The petition shall satisfy all of the following conditions:

23 1. If a petition for an initiative law, be signed by qualified electors equaling at
24 least 6 percent of the vote cast for the office of governor at the last preceding
25 gubernatorial election.

1 2. If a petition for an initiative constitutional amendment, be signed by
2 qualified electors equaling at least 8 percent of the vote cast for the office of governor
3 at the last preceding gubernatorial election.

4 3. Include the full text of the proposed law or constitutional amendment
5 prepared in proper form, as provided by law. Upon request by any qualified elector,
6 the commission administering state elections shall have the proposed law or
7 constitutional amendment drafted in proper form, as provided by law, and made
8 available to the public. The proposed law or amendment shall embrace no more than
9 one subject, and that shall be expressed in the title.

10 4. Be filed with the commission administering state elections not less than 120
11 days before the election at which the proposed law or constitutional amendment is
12 to be voted upon.

13 (b) All signatures for a petition submitted under par. (a) must be made on paper.
14 After verifying the sufficiency of the signatures for a petition, the commission
15 administering state elections shall order the submission of the initiative law or
16 amendment to the qualified electors of the state for their approval or rejection at the
17 next succeeding general election occurring subsequent to 120 days after the filing of
18 the petition.

19 (c) If approved by a majority of the qualified electors voting at the election, an
20 initiative law or constitutional amendment shall go into effect on the 30th day after
21 the date the commission administering state elections certifies the election results
22 as provided by law, unless a different effective date is specified in the initiative law
23 or amendment. The legislature may not repeal or amend an initiative law or any part
24 of an initiative law for the two years immediately succeeding its publication and may

1 not repeal or amend an initiative law or any part of an initiative law except by a vote
2 of two-thirds of all the members elected to each house.

3 (d) If not approved by a majority of the qualified electors voting at the election,
4 substantially the same initiative law or constitutional amendment, as determined
5 by the commission administering state elections, may not be submitted again to the
6 qualified electors under par. (b) until a general election occurring at least five years
7 after the general election at which the initiative law or constitutional amendment
8 was rejected.

9 **SECTION 7.** Section 17 (7) of article IV of the constitution is created to read:

10 [Article IV] Section 17 (7) No person may pay to or receive from another person
11 money or another thing of value based on the number of signatures obtained on an
12 initiative or referendum petition under this section. This subsection does not
13 prohibit payment for signature gathering that is not based, either directly or
14 indirectly, on the number of signatures obtained.

15 **SECTION 8.** Section 10 (1) (b) of article V of the constitution is amended to read:

16 [Article V] Section 10 (1) (b) If the governor approves and signs the bill, the bill
17 shall become law unless rejected by the people at a referendum. Appropriation bills
18 may be approved in whole or in part by the governor, and the part approved shall
19 become law unless rejected by the people at a referendum.

20 **SECTION 9. Numbering of new provisions.** If another constitutional
21 amendment ratified by the people creates the number of any provision created in this
22 joint resolution, the chief of the legislative reference bureau shall determine the
23 sequencing and the numbering of the provisions whose numbers conflict and shall
24 adjust any cross-references to those provisions.

