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# Arizona Initiatives and Referenda

Tina S. Ching

**SUMMARY.** This article discusses research of initiatives and referendums in Arizona. A brief summary of the history of I&R in Arizona and an outline of the process is followed by an annotated list of some of the most relevant resources for those researching in the area. doi:10.1300/J113v26n03\_03 [Article copies available for a fee from The Haworth Document Delivery Service: 1-800-HAWORTH. E-mail address: <docdelivery@haworthpress.com> Website: <<http://www.HaworthPress.com>> © 2007 by The Haworth Press. All rights reserved.]

**KEYWORDS.** Arizona, initiative, referendum, election law

## INTRODUCTION

With 19 measures in the November 2006 general election, voters in Arizona claimed the distinction of having the longest ballot in the nation.<sup>1</sup> The measures covered issues ranging from an increased minimum wage to smoking rights to immigration. Most of the measures that appeared on the poster-sized ballots resulted from the direct initiative process—where members of the public or organizations filed for and

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circulated petitions to place the measure on the ballot—while several of the measures were placed on the ballot by the Arizona State Legislature. However, even with the widespread use of initiatives and referenda in Arizona, there are limited sources of information. Depending on the purpose of research, especially if one is looking for information on older elections, there will be a few places to obtain that information.

This guide offers some direction about where information can be located, whether looking up information on past I&R, on filing an initiative or referendum, or trying to find information on a proposition in an upcoming election. After a very brief history of how the I&R system began in Arizona, I will give an overview of the process, and describe some of the major resources that will help a researcher begin their quest for information on I&R in Arizona.

### ***HISTORY OF THE ARIZONA SYSTEM***

For those interested in politics, Arizona's history with the initiative and referendum is a fascinating chronicle beginning prior to statehood.<sup>2</sup> There were a couple promising pushes to permit the I&R process while Arizona was still a territory. The legislature of the territory of Arizona, strongly influenced by labor unions, passed an I&R bill in 1899 but, ironically, it was vetoed by the Governor.<sup>3</sup> In 1909, a direct legislation bill was introduced, but the bill died in the house.<sup>4</sup>

By the time the Enabling Act of 1910 allowed Arizona to form a constitution to join the Union, the debate was not over whether there should be an initiative and referendum process, but rather what percentage of signatures would be required for petitions.<sup>5</sup> After much debate during the constitutional convention, the Arizona Constitution, including provisions for initiatives and referenda, was finally approved.<sup>6</sup>

Since the first initiative in 1912, when women were given the right to vote, Arizonan voters have seen over 200 measures on ballots—making it one of the most widely used direct legislation systems in the United States.

### ***BASICS OF ARIZONA'S I&R PROCESS***

While members of the Arizona State Senate and the House of Representatives have legislative authority, according to the Arizona Constitution, the people have initiative power.<sup>7</sup> In addition, the Arizona Revised

Statutes discuss the particulars of the form, circulation and filing of initiatives and referendums.<sup>8</sup> These laws provide for direct initiatives, popular referenda, and legislative referenda, allowing the people of Arizona the ability to create statutes and amend the constitution.

Before circulating a petition to obtain signatures, a form must be filed with the Secretary of State including information such as a brief description and text of the proposed law.<sup>9</sup> The petitioner must do this to obtain a petition number that must be located on all signature sheets.<sup>10</sup> Petition numbers beginning with a “C” are measures that if passed would amend the constitution. Petition numbers beginning with an “I” would add or amend the Arizona Revised Statutes if passed. In the case of a measure placed on the ballot by the legislature, the identifier begins with an HCR or SCR.<sup>11</sup> While voters generally ignore the identifier and better know the measure by its ballot number or title, the identifier can be helpful in finding legislative history for these resolutions.

Next, petitioners must obtain signatures. The constitution dictates how many signatures are required for an initiative to appear on the ballot. For constitutional amendments, the number of signatures must equal fifteen percent of all votes cast for Governor in the last general election.<sup>12</sup> For statutes, the number of signatures needed equals ten percent of the votes cast for Governor.<sup>13</sup> Each petition sheet must have a place on it indicating whether the circulator is paid or is a volunteer. If it is not indicated, then the entire page of signatures will be deemed invalid.<sup>14</sup> When circulating, the signature sheets must be attached to the full text of the measure.<sup>15</sup> Petition circulators must also sign an affidavit stating that they are qualified to be a registered voter.<sup>16</sup> Once the sheets are turned in, the Secretary of State uses a random sampling method to verify the signatures.<sup>17</sup> The county recorder must also certify the signature sheets.<sup>18</sup> If enough signatures have been collected, then the measure will appear in the Publicity Pamphlet and ultimately on the ballot.

The Publicity Pamphlet is one way the Secretary of State’s office distributes information about the measures. It is an official State publication that includes the measure’s title, full text, form in which it appears on the ballot, arguments for and against the measure, legislative council analysis, and fiscal impact statement. The pamphlet is mailed to every household with a registered voter. Anyone can write a statement for or against the measure, but for it to be printed in the Publicity Pamphlet, a \$100 fee is required and the statement cannot exceed 300 words. The State also holds open hearings for the public to obtain information about and discuss the measures. The hearings are held in at least three

different counties prior to the election.<sup>19</sup> The schedule of hearings can be found on the Secretary of State's Web site.<sup>20</sup>

The measures that appear on the general election ballots receive a new number, generally known as the ballot number. Measures assigned numbers in the 100s are proposed constitutional amendments, initiatives affecting statutes begin in the 200s, referenda affecting statutes begin at 300 and then are consecutively numbered in the order in which they were filed with the Secretary of State.<sup>21</sup>

Measures or amendments that are approved in the general election are printed with the laws that are enacted in the next legislative session.<sup>22</sup> Once an initiative or referendum has been approved by the electorate, the Governor cannot veto it and the legislature cannot repeal it.<sup>23</sup> The legislature can amend an initiative or divert funds created or allocated by an initiative only if it furthers the purpose of the measure and at least three fourths of each house vote to amend the measure.<sup>24</sup>

### ***LOCATING ARIZONA MATERIALS***

Most I&R researchers (whether in or outside of Arizona) will be happy to know that most information can be found in the comfort of their own homes via the Internet. The information available includes recent publicity pamphlets, news coverage on the most recent general election, the Arizona laws on I&R, and limited historical information. For information on elections older than 1990, researchers will likely have to contact the Arizona State Archives or the Secretary of State's office. Some resources may also be available at the Arizona State University and University of Arizona libraries, though most of the I&R resources are for use in the library only and will be difficult to obtain out of state.

#### ***Official Documents***

*Arizona Secretary of State*, at <http://www.azsos.gov/>.

The Arizona Secretary of State's Web site provides a wealth of information on initiatives and referenda. Most I&R information can be found at <http://www.azsos.gov/election/IRR/>. The link to the "Initiative, Referendum & Recall Handbook" is an electronic version of the laws pertaining to Arizona's initiative, referendum and recall. The "Ballot Measure Information" link provides information on the most recent election. Most valuable is a PDF of the Publicity Pamphlet that includes the full text of all measures and the arguments for and

against it. In addition, the site has a schedule of town hall meetings that are open to the public. These meetings allow the public to discuss and obtain information about measures on the ballot. Information on all applications (including ones that did not make the ballot) is available including the petition serial number, the title, sponsor contact information, description, the application date, due date and the number of signatures required. Notifications of Contributions to Ballot Measure Committees are also available. Information on older ballot measures is also available online on the Secretary of State's Web site back to 1992 at <http://www.azsos.gov/election/PreviousYears.htm>. For elections back to 1998, the publicity pamphlet is located under the "Miscellaneous Election Information" link. For the election years 1992, 1994 and 1996, the information is located under the "Ballot Propositions" link. Election results are also available online back to 1974.

*Arizona State Legislature*, at <http://www.azleg.state.az.us/>.

The constitutional provisions and statutes on initiative, referendum and recall are available at the Arizona Legislature's Web site. Bill information, which may be helpful for research on legislative referenda, is available online back to the Forty-second Legislature (1995). While the Legislative Council analyses on ballot measures and fiscal impact analyses from the Joint Legislative Budget Committee are available in the publicity pamphlets, they may also be made available on the legislature's Web site. The 2006 Legislative Council analyses can be found in both Word and PDF versions at [http://www.azleg.state.az.us/2006\\_Ballot\\_Proposition\\_Analyses/](http://www.azleg.state.az.us/2006_Ballot_Proposition_Analyses/). Fiscal Impact Analyses back to 2000 are available at <http://www.azleg.gov/jlbc/06fisnotes.htm>.

### ***Arizona I&R History***

Fitzgerald, William Richard. *Trends in the Use of the Initiative and Referendum in the State of Arizona 1912-1948* (M.A. thesis, Ariz. St. U. 1949).

This master's thesis, only available at the Arizona State University Library, examines the use of I&R in Arizona. It uses the information to examine how I&R has influenced electorate participation. While the span of years covered is outdated, limiting its usefulness, it groups measures by topic and discusses trends in voting in Arizona's first decades of statehood.

Leshy, John D. *The Arizona State Constitution: A Reference Guide* (Greenwood Press 1993).

This guide discusses each section of the Arizona Constitution. Particularly useful is the in depth examination of the provisions related to I&R as well as the commentary, analysis, and references to case law.

Roush, Russell Brown. *The Initiative and Referendum in Arizona: 1912-1978* (Ph.D. dissertation, Ariz. St. U., 1979).

This valuable resource takes an extensive look at I&R going back to popular lawmaking in ancient Greece and Rome. Roush discusses the history and legal basis of the initiative and referendum in Arizona. Various statistics are available on all referred and initiated proposals between 1912 and 1978. The dissertation is available at the University of Arizona and Arizona State University.

*The Records of the Arizona Constitutional Convention of 1910* (John S. Goff ed., Sup. Ct. Ariz. 1991).

This is an invaluable resource for those looking to investigate the origins of the initiative and referendum in Arizona. It contains an index to subjects making it fairly painless to find discussion of I&R during the convention. Looking up “initiative and referendum” will direct the researcher to the relevant pages. Be warned, however: the number of pages where it was discussed could fill a short novel.

Todd, Charles Foster. *The Initiative and Referendum in Arizona* (M.A. thesis, U. Ariz., 1931).

This thesis is perhaps the most comprehensive discussion of the history of the initiative and referendum in Arizona. It contains references to letters and personal interviews with those directly involved in creating the process. In addition, it refers to historical resources that may be helpful to those interested in the origins of the Arizona processes. The thesis is available at the University of Arizona, Arizona State University and the Arizona State Archives.

### ***Local News***

Local news sources are generally good resources for an upcoming election or a look back at the most recent election. These resources, while an excellent resource for the most recent election, do not generally maintain their special election Web pages for older elections. Be aware that some of the links listed here may not work in the future, but

the sources that are listed will more than likely continue to cover future elections.

*Arizona Capitol Times*, at <http://www.azcapitoltimes.com/>.

The *Capitol Times* focuses on government and political issues in Arizona with an emphasis on the State legislature's activities. 2006 election coverage is available at <http://www.azcapitoltimes.com/group.cfm?sect=election2006> though, to access it, you must be a subscriber.

*Arizona Daily Star*, at <http://www.azstarnet.com/>.

The *Daily Star* covers news in the Tucson area. Archives are available online back to 1991 for purchase through Newsbank.

*Arizona Republic*, at <http://www.azcentral.com/news/election/ballot/ballot.html>.

*The Arizona Republic* covers news for the Phoenix area and has coverage on the most recent election including stories on the ballot initiatives. The paper also provides its own voting recommendations. Older articles are available on the site for purchase through Newsbank.

*Horizon*, at <http://www.azpbs.org/horizon/index.asp>.

*Horizon* is an Arizona public affairs show on local Public Broadcasting Service station KAET. Selecting "Elections" under the "Topics" menu will result in transcripts for recent shows. There are several shows on propositions. Some shows also have video and audio available including Windows Media and Quick Time video files on each of the propositions. A list of links for the 2006 election can be found at <http://www.azpbs.org/vote2006/watch.htm#props>.

*KJZZ*, at <http://kjzz.org/news/arizona/archives/200607/ballotmeasures>.

This National Public Radio station based out of Tempe, Arizona has made available MP3 files of its show *Here and Now* when ballot measures were discussed for the 2006 election. The Web site also has a list of the ballot measures with a brief description of the measures, including information on funding.

### ***Miscellaneous Resources***

Hodgkinson, Randall L. *Executive, Legislative, and Judicial Power Over Direct Legislation in Arizona*, 23 *Ariz. St. L.J.* 1111 (1991).

This article discusses the constitutional basis for Arizona's I&R and the Governor's power to veto measures that have been passed.



Hodgkinson also discusses the legislature's power to repeal or amend passed measures as well as the judiciary's power to review measures that have been approved by the electorate.

Initiative and Referendum Institute—*Arizona*, at <http://www.iandrinstitute.org/Arizona.htm>.

This Web site includes a history of I&R in Arizona, an explanation of the direct initiative process (specific to the 2002 election), and other very useful links.

Kilmark, Jeffrey Allan. *Government Knows Best? An Analysis of the Governor's Power to Veto and the Legislature's Power to Real or Amend Voter Enacted Initiative and Referendum Petitions in Arizona*, 30 *Ariz. St. L.J.* 829 (1998).

Kilmark explains the I&R process in Arizona and proceeds to analyze the Governor's and Legislature's powers to alter measures that have been approved by the electorate. The article concludes with possible alternatives to the current system.

National Conference of State Legislatures, *Initiative and Referendum Database*, at <http://www.ncsl.org/programs/legismgt/elect/dbintro.htm>.

Also called the "Ballot Measures Database," this Web site allows users to search measures by state, topic, year, type of election and measure type. It has basic information on initiatives and referenda back to the general election of 1914. However, be aware of some of the information: It is not comprehensive and may not be accurate. For instance, it does not include information on the measures from the 1912 general election, and for at least one proposition, it had an incorrect status listed.

Project Vote Smart, *Arizona Ballot Measures*, at <http://www.vote-smart.org > My State > Ballot Measures > Arizona>.

This Web site has information on Arizona ballot measures back to 1996 including the title, summary, and whether it passed or failed.

Waters, M. Dane. *Initiative and Referendum Almanac*, 49-72 (Carolina Academic Press 2003).

This invaluable I&R resource gives a brief overview of Arizona's history with the initiative and referendum followed by a handy chart listing the measures voted on since I&R was first used in 1912. It includes the year, the measure number (if available), the type, subject

matter, a brief description and whether it passed or failed. The relevant sections of the Arizona Constitution and statutes are reproduced followed by “The Basic Steps to Do an Initiative in Arizona.” The appendix includes information on the 14 measures that appeared on the November 2002 general election ballot.

## NOTES

1. See e.g. National Conference of State Legislatures, *Ballot Measures Preview 2006*, at <http://www.ncsl.org/statevote/06ballotpreview.htm>.

2. For a more substantial treatment and analysis of the history of I&R in Arizona, please consult one of the resources listed under “Arizona I&R History” as an extensive discussion is beyond the scope of this guide.

3. Charles Foster Todd. *The Initiative and Referendum in Arizona*, 10 (M.A. thesis, U. Ariz., 1931).

4. *Id.* at 13.

5. *Id.* at 28.

6. Arizona became a state on February 14, 1912.

7. The source of the initiative and referendum powers originate from Arizona constitution article 4 discussing legislative powers and article 21 dealing with amendments to the constitution.

8. Ariz. Rev. Stat. Ann. §§ 19-101 et seq.

9. Ariz. Rev. Stat. Ann. § 19-111(A).

10. Ariz. Rev. Stat. Ann. § 19-121(A).

11. “H” indicates that the resolution originated in the House and the “S” indicates origination in the Senate.

12. Ariz. Const. art. IV, § 1 (2) and (7).

13. *Id.*

14. Ariz. Rev. Stat. Ann. § 19-102.

15. Ariz. Rev. Stat. Ann. § 19-121(A).

16. Ariz. Rev. Stat. Ann. § 19-112(D).

17. Ariz. Rev. Stat. Ann. § 19-121.01(B).

18. Ariz. Rev. Stat. Ann. § 19-121.02.

19. Ariz. Rev. Stat. Ann. § 19-123(D).

20. *Arizona Secretary of State*, at <http://www.azsos.gov/>.

21. Ariz. Rev. Stat. Ann. § 19-125(B).

22. Ariz. Rev. Stat. Ann. § 19-127.

23. Ariz. Const. art. IV, § 1 (6)(A)-(B).

24. Ariz. Const. art. IV, § 1 (6)(C)-(D).

