

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 538 Session of
2021

INTRODUCED BY BOSCOLA, SCHWANK AND HAYWOOD, APRIL 9, 2021

REFERRED TO STATE GOVERNMENT, APRIL 9, 2021

A JOINT RESOLUTION

1 Proposing an amendment to the Constitution of the Commonwealth
2 of Pennsylvania, providing for powers reserved to the people.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby resolves as follows:

5 Section 1. The following amendment to the Constitution of
6 Pennsylvania is proposed in accordance with Article XI:

7 That Article III be amended by adding a section to read:

8 § 33. Powers reserved to the people.

9 (a) (1) The legislative power of this Commonwealth shall be
10 vested in the Senate and the House of Representatives, but the
11 people reserve to themselves the power to propose laws and
12 amendments to this Constitution at the polls, independently of
13 the General Assembly.

14 (2) The initiative is the power of the electors to propose
15 statutes and amendments to this Constitution.

16 (3) An initiative measure may be proposed by presenting to
17 the Secretary of the Commonwealth a petition that provides the
18 text of the proposed statute or amendment to this Constitution

1 and is certified by the Secretary of the Commonwealth to have
2 been signed by registered electors equal in number to 5% of the
3 votes for all candidates for Governor at the last gubernatorial
4 election in not less than 45 counties in this Commonwealth.

5 (4) The Secretary of the Commonwealth shall only certify a
6 measure on which all signatures on petitions are obtained and
7 affixed to the petitions for the measure during the same regular
8 session of the General Assembly and which is submitted by 5 p.m.
9 on Friday after the second Thursday of February in the second
10 year of that session.

11 (5) An initiative measure embracing more than one subject
12 may not be submitted to the electors or have any effect.

13 (6) No measure that relates to religion, religious practices
14 and institutions; the appointment, qualification, tenure,
15 removal, recall or compensation of judges; the reversal of a
16 judicial decision; the powers, creation or abolition of courts;
17 the making of a specific appropriation of money from the
18 treasury; and the naming of a private corporation to perform a
19 function or to have a power or duty may be proposed by an
20 initiative petition.

21 (7) The Secretary of the Commonwealth shall submit the
22 measure at the next general, municipal, primary or special
23 Statewide election held at least 75 days after it qualifies. The
24 measure shall be referred to a vote of the qualified electors
25 and shall become law when approved by a majority of the votes
26 cast on the measure and upon proclamation of the Governor.

27 (b) (1) The legislative power of this Commonwealth shall be
28 vested in the Senate and the House of Representatives, but the
29 people reserve to themselves the power, at their own option, to
30 reject statutes or parts of statutes passed by the General

1 Assembly.

2 (2) The referendum is the power of the electors to reject
3 statutes or parts of statutes except urgency statutes or
4 statutes calling elections.

5 (3) A referendum measure may be proposed by presenting to
6 the Secretary of the Commonwealth, within 90 days after the
7 enactment date of the statute, a petition certified to have been
8 signed by registered electors equal in number to 5% of the votes
9 for all candidates for Governor at the last gubernatorial
10 election in not less than 45 counties in this Commonwealth
11 asking that the statute or part of it be submitted to the
12 electors.

13 (4) If a petition is certified to have been signed by
14 registered electors equal to 10% of the votes for all candidates
15 for Governor at the last gubernatorial election in not less than
16 45 counties in this Commonwealth, the effective date of the
17 enacted legislation is suspended until the next election at
18 which time the measure shall be submitted to the electors.

19 (5) The Secretary of the Commonwealth shall submit the
20 measure at the next general, municipal, primary or special
21 Statewide election held at least 75 days after it qualifies. The
22 measure shall be referred to a vote of the qualified electors
23 and shall become law when approved by a majority of the votes
24 cast on the measure and upon proclamation of the Governor.

25 (c) (1) The General Assembly shall provide the manner in
26 which petitions shall be circulated, presented and certified and
27 require by law measures to ensure full disclosure of
28 disbursements made and receipts obtained by parties who have an
29 interest in initiative and referendum measures and who have
30 exceeded a statutory threshold for these disbursements and

1 receipts for any one initiative or referendum measure in each
2 election. The General Assembly shall also require by law
3 reasonable limits on contributions made to parties who have an
4 interest in the passage or defeat of an initiative or referendum
5 measure for each measure and in each election. The General
6 Assembly shall also require by law the full disclosure of any
7 disbursements made by a person or corporation from another state
8 to advocate the passage or defeat of an initiative or referendum
9 measure. The General Assembly shall, within 90 days following
10 approval of this section, enact the legislation outlined in this
11 paragraph.

12 (2) An initiative or referendum petition, in order to be
13 eligible for certification by the Secretary of the Commonwealth,
14 shall first be signed by 100 registered electors of the
15 Commonwealth, the originators, who shall pay an administrative
16 fee not exceeding the fee required by law for the filing of
17 nomination petitions by candidates for public office to be
18 filled by the electors of the State-at-large. If the Secretary
19 of the Commonwealth shall certify that the petition contains the
20 entire text of the measure, that the measure is not, either
21 affirmatively or negatively, substantially the same as any
22 measure which has been previously submitted to the electors
23 during the same session of the General Assembly and that it
24 contains only one subject which is not excluded from
25 consideration under this section, then the Secretary of the
26 Commonwealth shall provide blanks for the use of subsequent
27 signers and shall print at the top of each blank the names of
28 the first 10 originators and a fair, concise summary, as
29 determined by the Secretary of the Commonwealth, of the proposed
30 measure as the summary will appear on the ballot.

1 (3) The Department of State shall, within 10 days of the
2 certification of an initiative or referendum petition upon which
3 the required number of signatures has been affixed, prepare an
4 explanation or argument, or both, for and also an explanation or
5 argument, or both, against the same. The Secretary of the
6 Commonwealth shall then publish the summary and explanations and
7 arguments, together with the entire text of the measure, in as
8 many newspapers of general circulation as deemed by the
9 Secretary of the Commonwealth to be sufficient to give notice
10 throughout this Commonwealth at least 20 days before the
11 election in which the measure is presented to the electors. This
12 information shall also be made available to the general public
13 in printed form.

14 (4) The Secretary of the Commonwealth shall certify no more
15 than two initiatives or two referendum measures in an election.
16 Each measure shall be limited to only one subject. If more than
17 two measures are submitted to the Secretary of the Commonwealth,
18 the two measures with the largest numbers of signatures shall be
19 certified. If two or more measures are substantially similar in
20 subject matter, whether or not they conflict, only the measure
21 with the largest number of signatures shall be certified.

22 (5) No more than three initiative and three referendum
23 measures may be certified by the Secretary of the Commonwealth
24 in any two-year period.

25 (6) No measure may appear on the ballot in an election more
26 often than once during a legislative session.

27 (7) The veto power of the Governor shall not extend to an
28 initiative measure approved by a majority of the votes cast on
29 the measure or to a referendum measure decided by a majority of
30 the votes cast on the measure.

1 (8) The General Assembly may not repeal an initiative
2 measure or a referendum measure, approved by a majority of the
3 votes cast on the measure.

4 (9) The General Assembly may not amend an initiative measure
5 approved by a majority of the votes cast on the measure, or
6 amend a referendum measure decided by a majority of the votes
7 cast on the measure, unless the amending legislation furthers
8 the purposes of the measure and at least three-fourths of the
9 members of the Senate and the House of Representatives vote to
10 amend the measure.

11 (10) The General Assembly may not appropriate or divert
12 funds created or allocated to a specific purpose by an
13 initiative measure approved by a majority of the votes cast on
14 the measure, or by a referendum measure decided by a majority of
15 the votes cast on the measure, unless the appropriation or
16 diversion of funds furthers the purposes of the measure and at
17 least three-fourths of the members of the Senate and the House
18 of Representatives vote to appropriate or divert the funds.

19 Section 2. (a) Upon the first passage by the General
20 Assembly of this proposed constitutional amendment, the
21 Secretary of the Commonwealth shall proceed immediately to
22 comply with the advertising requirements of section 1 of Article
23 XI of the Constitution of Pennsylvania and shall transmit the
24 required advertisements to two newspapers in every county in
25 which such newspapers are published in sufficient time after
26 passage of this proposed constitutional amendment.

27 (b) Upon the second passage by the General Assembly of this
28 proposed constitutional amendment, the Secretary of the
29 Commonwealth shall proceed immediately to comply with the
30 advertising requirements of section 1 of Article XI of the

1 Constitution of Pennsylvania and shall transmit the required
2 advertisements to two newspapers in every county in which such
3 newspapers are published in sufficient time after passage of
4 this proposed constitutional amendment. The Secretary of the
5 Commonwealth shall submit this proposed constitutional amendment
6 to the qualified electors of this Commonwealth at the first
7 primary, general or municipal election which meets the
8 requirements of and is in conformance with section 1 of Article
9 XI of the Constitution of Pennsylvania and which occurs at least
10 three months after the proposed constitutional amendment is
11 passed by the General Assembly.