

AN INITIATIVE MEASURE

CREATING AN OPEN PRIMARY GIVING ALL QUALIFIED VOTERS THE RIGHT TO VOTE FOR THE CANDIDATES OF THEIR CHOICE, PROPOSING AN AMENDMENT TO THE CONSTITUTION OF ARIZONA; AMENDING ARTICLE VII OF THE CONSTITUTION OF ARIZONA RELATING TO DIRECT PRIMARY ELECTION LAW

TEXT OF PROPOSED AMENDMENT

Be it enacted by the People of the State of Arizona:

Section 1. Title. This initiative amendment shall be known as the “Open Elections/Open Government Act.”

Section 2. Purpose.

A. This initiative will ensure that every person qualified to vote, including those not affiliated with any political party, has the right to vote at any election for any candidate, regardless of the voter’s or the candidate’s party affiliation or lack of party affiliation.

B. To provide more choice to all the voters and candidates of Arizona, this proposition:

(1) Abolishes the existing system of taxpayer-funded primary elections to select nominees for political parties.

(2) Creates in its place an Open “Top Two” Primary Election, in which all candidates running for an office appear together on the same ballot and all qualified voters (regardless of party affiliation or lack thereof) are able to vote for the candidate of their choice. The two candidates receiving the highest vote totals for each office would then go on to face each other in the general election.

C. This proposition applies to all Arizona elections in which a candidate’s party affiliation, registration, or preference may appear on the ballot. It does not apply to elections in which no party affiliation, registration, or preference appears on the ballot, and it also does not apply to the system for the election of President and Vice President of the United States.

Section 3. Article VII section 10, Constitution of Arizona, is amended by repealing section 10 and replacing it as follows:

~~§ 10. Direct primary election law~~

~~Section 10. The Legislature shall enact a direct primary election law, which shall provide for the nomination of candidates for all elective State, county, and city offices, including candidates for United States Senator and for Representative in Congress. Any person who is registered as no party preference or independent as the party preference or who is registered with a political party that is not qualified for representation on the ballot may vote in the primary election of any one of the political parties that is qualified for the ballot.~~

§ 10. OPEN TOP TWO PRIMARY

A. APPLICABILITY. THIS SECTION SHALL APPLY TO THE ELECTION OF CANDIDATES FOR ALL FEDERAL, STATE, COUNTY, AND LOCAL ELECTIVE OFFICES EXCEPT (1) THOSE IN WHICH NO PARTY AFFILIATION, REGISTRATION, OR PREFERENCE MAY APPEAR ON THE ELECTION BALLOT AND (2) THE SYSTEM FOR THE ELECTION OF PRESIDENT AND VICE PRESIDENT OF THE UNITED STATES.

B. RIGHTS OF VOTERS. ALL QUALIFIED VOTERS SHALL BE GUARANTEED THE UNRESTRICTED RIGHT TO VOTE FOR THE QUALIFIED CANDIDATE OF THEIR CHOICE IN ALL ELECTIONS. NO VOTER SHALL BE DENIED THE RIGHT TO VOTE FOR THE QUALIFIED CANDIDATE OF HIS OR HER CHOICE IN A PRIMARY OR GENERAL ELECTION BASED UPON HIS OR HER PARTY AFFILIATION OR LACK THEREOF. VOTERS SHALL BE PERMITTED TO STATE THEIR PARTY PREFERENCE (IF ANY) IN THEIR OWN WORDS ON THEIR VOTER REGISTRATION FORM, AND SHALL NOT BE LIMITED TO SELECTING FROM A LIST OF RECOGNIZED PARTIES OR AFFILIATIONS.

C. PROCEDURE. FOR OFFICES TO WHICH THIS SECTION APPLIES, AN OPEN PRIMARY ELECTION SHALL BE CONDUCTED TO SELECT THE CANDIDATES WHO COMPETE IN THE GENERAL ELECTION. ALL REGISTERED VOTERS MAY VOTE IN THE OPEN PRIMARY ELECTION FOR ANY QUALIFIED CANDIDATE, PROVIDED THAT THE VOTER IS OTHERWISE QUALIFIED TO VOTE FOR CANDIDATES FOR THE OFFICE IN QUESTION. THE TWO CANDIDATES WHO RECEIVE THE MOST VOTES IN THE PRIMARY ELECTION SHALL COMPETE IN THE GENERAL ELECTION; EXCEPT THAT, FOR ANY OFFICE TO WHICH MORE THAN ONE CANDIDATE WILL BE ELECTED, THE NUMBER OF CANDIDATES WHO WILL COMPETE IN THE GENERAL ELECTION SHALL BE THE NUMBER OF CANDIDATES TO BE ELECTED TIMES TWO. THIS SECTION DOES NOT PROHIBIT WRITE-IN VOTING IN EITHER THE PRIMARY OR GENERAL ELECTION AS OTHERWISE PRESCRIBED BY LAW.

D. FILING REQUIREMENT. ALL CANDIDATES WISHING TO RUN FOR AN ELECTIVE OFFICE TO WHICH THIS SECTION APPLIES SHALL FILE, WITH THE APPROPRIATE ELECTIONS OFFICER, PETITIONS CONTAINING THE SIGNATURES OF REGISTERED VOTERS IN AN AMOUNT TO BE ESTABLISHED BY LAW. THE SIGNATURE REQUIREMENTS ESTABLISHED PURSUANT TO THIS SECTION SHALL BE BASED ON THE TOTAL VOTES CAST FOR THAT OFFICE IN THE PREVIOUS GENERAL ELECTION AND SHALL BE THE SAME FOR ALL CANDIDATES FOR THAT OFFICE, REGARDLESS OF PARTY AFFILIATION OR LACK THEREOF.

E. RIGHTS OF CANDIDATES. AT THE TIME THEY FILE TO RUN FOR PUBLIC OFFICE, EVERY CANDIDATE SHALL HAVE THE CHOICE TO DECLARE HIS OR HER PARTY PREFERENCE (IF ANY) AS IT IS STATED ON THEIR VOTER REGISTRATION FORM, UP TO A MAXIMUM OF 20 CHARACTERS. THAT PARTY PREFERENCE (IF ANY) SHALL APPEAR ON THE CANDIDATE'S NOMINATION PETITIONS AND ON THE PRIMARY AND GENERAL ELECTION BALLOTS USING THE PHRASE "REGISTERED AS _____." ON THE BALLOTS, THE WORDS "REGISTERED AS" MAY BE USED IN A COLUMN HEADING OR OTHER PREFATORY TEXT RATHER THAN BEING REPEATED NEXT TO THE PARTY PREFERENCE OF EACH CANDIDATE, SO LONG AS THE WORDS "REGISTERED AS" REMAIN PROMINENTLY STATED AND CLEAR TO THE READER. IF NO PARTY PREFERENCE IS STATED ON A CANDIDATE'S VOTER REGISTRATION FORM, THEN NO DESIGNATION SHALL APPEAR ON THE NOMINATION PETITIONS OR BALLOT WITH THE CANDIDATE'S NAME.

F. BALLOT LANGUAGE. IN ALL GOVERNMENT-ISSUED VOTER EDUCATION MATERIALS THAT CONTAIN A LIST OF CANDIDATES STANDING FOR ELECTION AND ON EVERY PRIMARY AND GENERAL ELECTION BALLOT, THE FOLLOWING LANGUAGE SHALL BE PROMINENTLY DISPLAYED: "THE PARTY

REGISTRATION (IF ANY) STATED WITH THE CANDIDATES' NAMES ON THIS BALLOT IS NOT AN INDICATION THAT A CANDIDATE HAS BEEN NOMINATED OR ENDORSED BY THAT PARTY, BUT ONLY REFLECTS THE PARTY REGISTRATION (IF ANY) OF THE CANDIDATE.”

G. RIGHTS OF POLITICAL PARTIES. NOTHING IN THIS SECTION SHALL RESTRICT THE RIGHT OF INDIVIDUALS TO JOIN OR ORGANIZE INTO POLITICAL PARTIES OR IN ANY WAY RESTRICT THE RIGHT OF PRIVATE ASSOCIATION OF POLITICAL PARTIES. NOTHING IN THIS SECTION SHALL RESTRICT THE PARTIES' RIGHT TO CONTRIBUTE TO, ENDORSE, OR OTHERWISE SUPPORT OR OPPOSE CANDIDATES FOR ELECTIVE OFFICE. POLITICAL PARTIES MAY ESTABLISH SUCH PROCEDURES AS THEY SEE FIT TO ELECT PARTY OFFICERS, ENDORSE OR SUPPORT CANDIDATES, OR OTHERWISE PARTICIPATE IN ALL ELECTIONS, BUT NO SUCH PROCEDURES SHALL BE PAID FOR OR SUBSIDIZED USING PUBLIC FUNDS.

H. LEVEL PLAYING FIELD. ALL QUALIFIED VOTERS AND CANDIDATES SHALL BE TREATED EQUALLY BY STATUTES AND REGULATIONS GOVERNING ELECTIONS REGARDLESS OF THEIR PARTY AFFILIATION OR LACK THEREOF. TO THE EXTENT THAT ANY PRIVILEGES OR PROCEDURES ARE MADE AVAILABLE TO CANDIDATES OR POLITICAL PARTIES, THEY SHALL BE MADE EQUALLY AVAILABLE TO ALL CANDIDATES OR POLITICAL PARTIES, REGARDLESS OF PARTY AFFILIATION, RECOGNITION, OR LACK THEREOF.

Section 4. Severability

If any provision of this initiative is held invalid for any reason, the remaining portions of this initiative will be severed from the void portion and given the fullest possible force and application. The people of Arizona declare their intention that the provisions of this initiative are severable.

Section 5. Submission to voters

The Secretary of State shall submit this proposition to the voters at the next general election as provided by Article XXI, Section 1, Constitution of Arizona.

Section 6. Effective date and implementation by Legislature

If approved by the voters, this Constitutional Amendment shall apply to all elections occurring after January 1, 2014, and shall supersede any existing state statutes, regulations, and elections procedures to the extent that they are inconsistent with this Constitutional Amendment. The Legislature, Secretary of State and local officials shall promptly make such changes in and additions to state statutes, regulations, and elections procedures as are necessary to fully implement the provisions of this Constitutional Amendment in time for the open primary election in 2014 and for every open primary and general election thereafter. Legislation, regulations, and elections procedures implementing this amendment must be consistent with and further the purpose of this amendment to permit and encourage all qualified voters in Arizona to vote in primary and general elections for the candidates of their choice, regardless of the political affiliation of voters and candidates.