

The Initiative and Referendum in South Dakota

WENZEL J. CUMMINGS

LEGISLATIVE ATTORNEY

LEGISLATIVE RESEARCH COUNCIL

WENZEL.CUMMINGS@SDLEGISLATURE.GOV



Foundations

Constitution

- ▶ Article III, § 1
 - ▶ Initiative & Referendum
- ▶ Article XXIII, § 1
 - ▶ Constitutional Amendments

South Dakota Codified Laws

- ▶ Chapter 2-1
 - ▶ Initiative & Referendum
- ▶ Title 12
 - ▶ Procedures
 - ▶ Amendments and Submitted Questions
 - ▶ Ballots and Election Supplies
 - ▶ Campaign Finance Requirements

Foundations



Constitution

Art. III, § 1 (1889)

The legislative power shall be vested in a legislature, which shall consist of a senate and house of representatives.



Foundations

Constitution

Art. III, § 1 (1898)

The legislative power shall be vested in a legislature which shall consist of a senate and house of representatives, except that the people expressly reserve to themselves the right to propose measures, which measures the legislature shall enact and submit 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 necessary for the immediate preservation of the public peace, health or safety, support of the state government and its existing public institutions.

Provided, that not more than five percentum of the qualified electors of the state shall be required to invoke either the initiative or the referendum.

This section shall 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 not be exercised as to measures referred to a vote of the people. This section shall apply 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.

Foundations

Constitution

Art. III, § 1 (1988)

The legislative power 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 necessary for the immediate preservation of the public peace, health or safety, support of the state government and its existing public institutions. Not more than five percent of the qualified electors of the state shall be required to invoke either the initiative or the referendum.

This section shall 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 not be exercised as to measures referred to a vote of the people. This section shall apply 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.

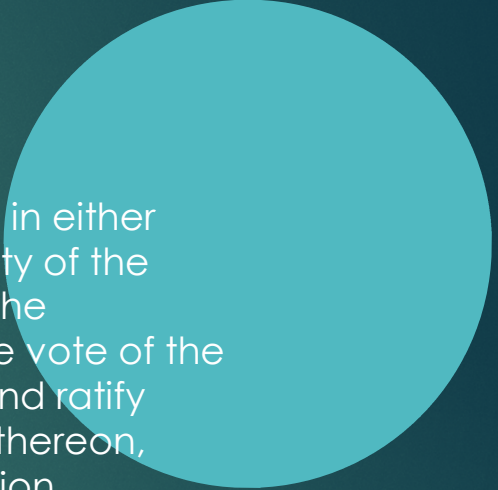
Foundations



Constitution

Art. XXIII, § 1 (1898)

Any amendment or amendments to this constitution may be proposed in either house of the legislature, and if the same shall be agreed to by a majority of the members elected to each of the two houses . . . it shall be the duty of the legislature to submit such proposed amendment or amendments to the vote of the people at the next general election. And if the people shall approve and ratify such amendment or amendments by a majority of the electors voting thereon, such amendment or amendments shall become a part of this constitution.



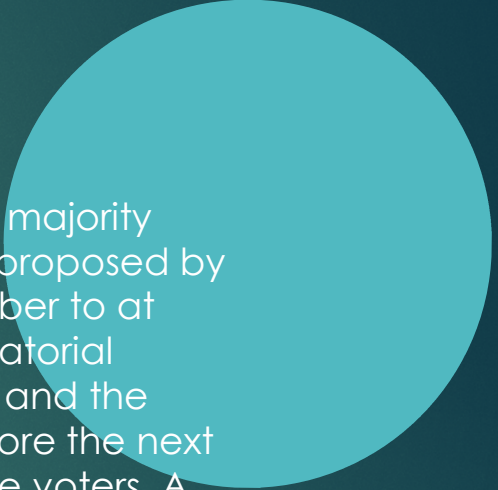
Foundations



Constitution

Art. XXIII, § 1 (1972)

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 ten percent of the total votes cast for Governor in the last gubernatorial election. 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.



Timeline

Initiatives and Referenda

1988

- Process moves from indirect to direct

1994

- Ballot measure language submitted to Legislative Research Council prior to petition circulation

2007

- Ballot measure sponsors “may, but are not required to . . . comply with [LRC’s] comments”
- Petition circulators may be compensated as petition circulators
- Secretary of State to examine and verify petition signatures

2009

- Attorney General's statement

Timeline

Initiatives and Referenda

2017 (effective July 1, 2017)

- Attorney General's statement, total page number, section count to be included in Secretary of State's brochure
- "Any interested person" may challenge petition signatures
- Number of petition signatures to be verified by random sampling changed from 5%
- Filing dates for statements of organization
- Effective date to be July 1st following the election
- Fiscal impact statement to be required for certain measures