

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL**No. 804** Session of
2009

INTRODUCED BY BOSCOLA, FONTANA, RAFFERTY AND BROWNE,
APRIL 23, 2009

REFERRED TO STATE GOVERNMENT, APRIL 23, 2009

A JOINT RESOLUTION

1 Proposing an amendment to the Constitution of the Commonwealth
2 of Pennsylvania, authorizing the use of the indirect
3 initiative and referendum as powers reserved to the people.

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

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

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

9 § 33. Powers reserved to the people.

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

14 (2) The indirect initiative is the power of the electors to
15 propose statutes and amendments to this Constitution and to
16 cause the General Assembly to take a vote in each House on the
17 approved proposal in the current legislative session or, if the
18 proposal is approved at a general election, no later than the

1 next legislative session.

2 (3) An indirect initiative measure may be proposed by
3 presenting to the Secretary of the Commonwealth a petition that
4 sets forth the text of the proposed statute or amendment to this
5 Constitution and is certified by the Secretary of the
6 Commonwealth to have been signed by registered electors equal in
7 number to 5% of the votes for all candidates for Governor at the
8 last gubernatorial election in each of the 45 counties in this
9 Commonwealth.

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

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

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

26 (7) The Secretary of the Commonwealth shall submit the
27 measure at the next general, municipal, primary or special
28 statewide election held at least 75 days after it qualifies.

29 (8) The Secretary of the Commonwealth shall then submit the
30 measure to the clerk of the Senate within ten Senate session

1 days of its receipt and to the clerk of the House of
2 Representatives within ten House session days of its receipt.

3 (9) The measure shall be referred to the appropriate
4 committee of the Senate and the House of Representatives, and
5 the committees shall report out their respective measures for
6 consideration by the full Senate and the House of
7 Representatives, respectively. The General Assembly shall not
8 finally adjourn a legislative session without a vote being taken
9 by the Senate and the House of Representatives on an indirect
10 initiative measure that is properly before the General Assembly.

11 (b) (1) The legislative power of this Commonwealth shall be
12 vested in the Senate and the House of Representatives, but the
13 people reserve to themselves the power, at their own option, to
14 reject statutes or parts of statutes passed by the General
15 Assembly.

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

19 (3) A referendum measure may be proposed by presenting to
20 the Secretary of the Commonwealth, within 90 days after the
21 enactment date of the statute, a petition certified to have been
22 signed by registered electors equal in number to 5% of the votes
23 for all candidates for Governor at the last gubernatorial
24 election in each of the 45 counties in this Commonwealth asking
25 that the statute or part of it be submitted to the electors.

26 (4) If a petition is certified to have been signed by
27 registered electors equal to 10% of the votes for all candidates
28 for Governor at the last gubernatorial election in each of the
29 45 counties in this Commonwealth, the effective date of the
30 enacted legislation is suspended until the next election at

1 which time the measure shall be submitted to the electors.

2 (5) The Secretary of the Commonwealth shall submit the
3 measure at the next general, municipal, primary or special
4 statewide election held at least 75 days after it qualifies.

5 (c) (1) The General Assembly shall provide the manner in
6 which petitions shall be circulated, presented and certified and
7 require by law measures to insure full disclosure of
8 disbursements made and receipts obtained by parties who have an
9 interest in indirect initiative and referendum measures and who
10 have exceeded a statutory threshold for these disbursements and
11 receipts for any one indirect initiative or referendum measure
12 in each election. The General Assembly shall also require by law
13 reasonable limits on contributions made to parties who have an
14 interest in the passage or defeat of an indirect initiative or
15 referendum measure for each measure and in each election. The
16 General Assembly shall also require by law the full disclosure
17 of any disbursements made by a person or corporation from
18 another state to advocate the passage or defeat of an indirect
19 initiative or referendum measure. The General Assembly shall,
20 within 90 days following approval of this section, enact the
21 legislation outlined in this paragraph.

22 (2) An indirect initiative or referendum petition, in order
23 to be eligible for certification by the Secretary of the
24 Commonwealth, shall first be signed by 100 registered electors
25 of the Commonwealth, the originators, who shall pay an
26 administrative fee not exceeding the fee required by law for the
27 filing of nomination petitions by candidates for public office
28 to be filled by the electors of the State-at-large. If the
29 Secretary of the Commonwealth shall certify that the petition
30 contains the entire text of the measure, that the measure is

1 not, either affirmatively or negatively, substantially the same
2 as any measure which has been previously submitted to the
3 electors during the same session of the General Assembly and
4 that it contains only one subject which is not excluded from
5 consideration under this section, then the Secretary of the
6 Commonwealth shall provide blanks for the use of subsequent
7 signers and shall print at the top of each blank the names of
8 the first ten originators and a fair, concise summary, as
9 determined by the Secretary of the Commonwealth, of the proposed
10 measure as the summary will appear on the ballot.

11 (3) The Department of State shall, within ten days of the
12 certification of an indirect initiative or referendum petition
13 upon which the required number of signatures have been affixed,
14 prepare an explanation or argument, or both, for and also an
15 explanation or argument, or both, against the same. The
16 Secretary of the Commonwealth shall then publish the summary and
17 explanations and arguments, together with the entire text of the
18 measure, in as many newspapers of general circulation as deemed
19 by the Secretary of the Commonwealth to be sufficient to give
20 notice throughout this Commonwealth at least 20 days before the
21 election in which the measure is presented to the electors. This
22 information shall also be made available to the general public
23 in printed form.

24 (4) The Secretary of the Commonwealth shall certify no more
25 than two indirect initiatives or two referendum measures in an
26 election. Each measure shall be limited to only one subject. If
27 more than two measures are submitted to the Secretary of the
28 Commonwealth, the two measures with the largest numbers of
29 signatures shall be certified. If two or more measures are
30 substantially similar in subject matter, whether or not they

1 conflict, only the measure with the largest number of signatures
2 shall be certified.

3 (5) No more than three indirect initiative and referendum
4 measures shall be certified by the Secretary of the Commonwealth
5 in any two-year period.

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

8 (7) The General Assembly shall not finally adjourn a
9 legislative session without a vote being taken by the Senate and
10 the House of Representatives on a referendum statute that is
11 properly before the General Assembly. The General Assembly may
12 override a referendum statute only upon a vote of two-thirds of
13 the members elected to the Senate and the House of
14 Representatives.

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

23 (b) Upon the second passage by the General Assembly of this
24 proposed constitutional amendment, the Secretary of the
25 Commonwealth shall proceed immediately to comply with the
26 advertising requirements of section 1 of Article XI of the
27 Constitution of Pennsylvania and shall transmit the required
28 advertisements to two newspapers in every county in which such
29 newspapers are published in sufficient time after passage of
30 this proposed constitutional amendment. The Secretary of the

1 Commonwealth shall submit this proposed constitutional amendment
2 to the qualified electors of this Commonwealth at the first
3 primary, general or municipal election which meets the
4 requirements of and is in conformance with section 1 of Article
5 XI of the Constitution of Pennsylvania and which occurs at least
6 three months after the proposed constitutional amendment is
7 passed by the General Assembly.