

CITY of ALBUQUERQUE

TWENTY-FIRST COUNCIL

COUNCIL BILL NO. R-13-2 ENACTMENT NO. _____

SPONSORED BY: Ken Sanchez and Brad Winter

1 RESOLUTION
2 ADOPTING A PROPOSITION TO BE SUBMITTED TO THE VOTERS ON THE
3 SOONER OF THE NEXT CITY-WIDE SPECIAL ELECTION, OR THE REGULAR
4 MUNICIPAL ELECTION BALLOT OF OCTOBER 6, 2015, AMENDING ARTICLE
5 III, SECTION 3 OF THE CHARTER OF THE CITY OF ALBUQUERQUE,
6 CONCERNING DIRECT LEGISLATION BY VOTER INITIATIVE; CREATING A
7 BALLOT INITIATIVE REVIEW COMMITTEE TO REVIEW PROPOSED
8 MEASURES FOR CONSTITUTIONAL OR OTHER LEGAL DEFECTS;
9 SPECIFYING THAT PROPOSED MEASURES SHALL BE SUBMITTED TO THE
10 CITY'S ELECTORS ONLY AT GENERAL OR REGULAR MUNICIPAL
11 ELECTIONS.

12 WHEREAS, the City of Albuquerque City Charter (the "Charter") authorizes
13 direct legislation by voter initiative provided that certain minimum
14 requirements are satisfied, including that a minimum number of registered
15 voters have signed the petition; and

16 WHEREAS, Article VI, Section 3 of the Charter authorizes the City Council
17 to Initiate Charter Amendments by approving a proposed amendment and
18 subsequently filing the proposed amendment with the City Clerk; and

19 WHEREAS, pursuant to the Charter, an election on the proposed
20 amendment must be held within ninety days of the Council's filing of the
21 proposed amendment with City Clerk; and

22 WHEREAS, in order to ensure continued access to the ballot initiative
23 process by the citizens of Albuquerque while protecting public funds and
24 resources, the City Council desires to submit to the City's electors, at the
25 sooner of the next city-wide special election or the October 6, 2015 regular

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municipal election, a proposal to amend Article III, Section 3 of the City Charter concerning direct legislation by voter initiative.

BE IT RESOLVED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF ALBUQUERQUE:

Section 1. That the City Clerk shall place the complete text of the below proposition to amend, and the following summary of the proposition on the ballot at the sooner of the next city-wide special election, or the October 6, 2015 regular municipal election, and the City of Albuquerque qualified voters shall be permitted to vote “for” or “against” the proposition:

SUMMARY

Proposing to create a Ballot Initiative Review Committee to review proposed measures for constitutional or other serious legal defects and specifying that proposed measures shall be submitted to voters at either general or regular municipal elections.

PROPOSITION

PROPOSING TO AMEND ARTICLE III, SECTION 3 OF THE ALBUQUERQUE CITY CHARTER TO READ AS FOLLOWS:

“Section 3. DIRECT LEGISLATION BY VOTER INITIATIVE.

(a) Except as provided in Subsection (d) of this Section, a measure may be proposed to the governing body for enactment as follows:

1. Notice of intent to circulate a petition proposing any measure must be signed by five qualified voters [(the “Measure Proponents”)] and filed with the City Clerk;

2. Concurrently with the filing of the notice of intent, the proposed measure shall be filed with the City Clerk[. Within three days of the filing, the City Clerk shall submit the proposed measure to the Ballot Initiative Review Committee for review pursuant to subsection (e) of this section];

3. The number of qualified voters required to sign the petition shall be a number more than 20% of the average number of voters who voted at the four regular municipal elections prior to filing the notice of intent or more than 20% of the number of voters who voted at the regular municipal election prior to filing the notice of intent, whichever is greater;

1 4. Before any signatures are affixed thereon, the form of such petition
2 must be approved by the City Clerk as provided by law and the date of filing
3 the notice of intent shown thereon;

4 5. No such petition or any part thereof, may be filed more than sixty
5 days after ~~[the date of filing the notice of intent]~~[the City Clerk's approval of
6 the form of the measure described in subsection (e) of this section] ;

7 6. If the Council fails to act upon a measure so proposed within fourteen
8 days after the City Clerk files a certification with the Council that the petition
9 has been signed by the required number of voters, or the Council acts
10 adversely thereon or amends it an election on the issues must be held ~~[within~~
11 ~~ninety days after the date of filing the petition]~~ [at the next general or regular
12 municipal election.]

13 (b) At such election the ballot shall contain the proposed measure as
14 originally submitted and the measure as amended, if amended by the
15 governing body of the city. Below each of these measures, there shall be
16 printed the words: "For" and "Against" followed by spaces for marking with a
17 cross or a check the word desired.

18 (c) The measure receiving a majority of the votes cast on that measure in
19 its favor is adopted. If each measure receives a majority of votes cast on that
20 measure in its favor, the measure receiving the greatest number of votes cast
21 in its favor is adopted. If neither measure receives a majority of the votes
22 cast, neither shall be in effect.

23 (d) The initiative procedure of this Section shall not be available to amend
24 or repeal, directly or indirectly:

25 1. Any ordinance authorizing bonds or other obligations where such
26 ordinance, bonds or other obligations appropriately have been approved at an
27 election in the city;

28 2. Any ordinance levying or otherwise relating to special assessments;

29 3. Any ordinance which imposes, levies, increases or otherwise amends
30 any excise tax pledged to any bonds or other obligations then outstanding;

31 4. Any ordinance which imposes, levies, increases or otherwise amends
32 rates, tolls, fees and charges for services rendered by any municipal utility or

1 any municipal revenue producing project if bonds or other obligations payable
2 from the designated source are then outstanding; or

3 5. Any ordinance authorizing or otherwise relating to any city bonds or
4 other obligations then outstanding.

5 [(e) There is hereby created a Ballot Initiative Review Committee as
6 described below:

7 1. The Ballot Initiative Review Committee shall consist of the following
8 three members:

9 i. The City Attorney, who shall serve as chair;

10 ii. An attorney appointed by the Council President with the advice
11 and consent of the Council;

12 iii. An attorney appointed by the Mayor with the advice and consent
13 of the Council.

14 2. Other than the City Attorney, at least one of the appointed members
15 of the Ballot Initiative Review Committee shall have an expertise in
16 municipal law, and at least one shall have an expertise in constitutional
17 law.

18 3. Within two (2) weeks of receipt from the Clerk of a proposed
19 measure, the Ballot Initiative Review Committee shall review the
20 proposed measure for constitutional or other legal defects. The City
21 Attorney shall report the findings of the Ballot Initiative Review
22 Committee to the City Clerk and advise the Clerk as to whether such
23 legal defects, if any, should prevent an election on the measure in the
24 form of the measure as proposed.

25 4. Based on the advise of the City Attorney, and any other
26 considerations not inconsistent with law, the City Clerk shall approve or
27 disapprove the form of the petition. If the petition is disapproved the
28 City Clerk shall advise the Measure Proponents as to the basis for
29 denial.]”

30 Section 2. TIME OF FILING WITH THE CITY CLERK. The Director of
31 City Council Services, or designee, shall file this proposed amendment
32 with the City Clerk the sooner of: a) the next soonest notice from the City
33 Clerk that a direct legislation by voter initiative petition has been signed by

1 the required number of voters pursuant to the process described in Article
2 III, Section 3 of the City Charter, or b) within the ninety days immediately
3 preceding the October 6, 2015 regular municipal election.

4 Section 3. SEVERABILITY CLAUSE. If any section, paragraph, word
5 or phrase of this resolution is for any reason held to be invalid or
6 unenforceable by any court of competent jurisdiction, such decision shall
7 not affect the validity of the remaining provisions of this resolution. The
8 Council hereby declares that it would have passed this resolution and each
9 section, paragraph, sentence, clause, word or phrase thereof irrespective
10 of any provision being declared unconstitutional or otherwise invalid.

11 Section 4. EFFECTIVE DATE. This Charter Amendment shall take
12 effect immediately following the certification of the election if approved by
13 the voters.

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