

September 10, 1935.

Mr. T. S. O'Connell,  
State Highway Engineer,  
Arizona Highway Department,  
Phoenix, Arizona.

Dear Tom:

Answering your verbal inquiry regarding provisions of the Constitution and Statutes of Arizona relative to initiative and referendum matters, I desire to call your attention to the following provisions of our law.

Article (4), part (1), section (2) of the Constitution of Arizona provides that ten percent of the qualified electors have the right to propose any measure or statute, and fifteen percent have the right to propose any amendment to the Constitution under our initiative law.

Sub-section (3) under the above article provides for the submission to the people at the polls of any measure enacted by the Legislature by way of Referendum when five percent of the qualified electors petition for the same, except "emergency measures".

Section 1740 of the Revised Code of Arizona, 1928, sets forth the form of a Referendum petition, while section 1741 sets forth the form of an initiative petition, the principal allegation in each of which is that the persons whose names are signed thereto "personally signed," the petition; "have not signed any other petition for the same measure"; and are "qualified electors".

Section 1742, Revised Code of Arizona, 1928, prescribes the method and form of the sheets containing the signatures of the petitioners and provides for the filing and printing of said petitions, while section 1743, Revised Code of Arizona, 1928, provides for the certification of the signatures to said

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petitions by the person who circulated the same.

Section 1744, Revised Code of Arizona, 1928, provides that any citizen after ten days refusal by the Secretary of State to accept and file any petition, may apply for a Writ of Mandamus to compel him to do so, and, also, provides that the Secretary of State may be enjoined by the Court from certifying or printing on official ballot any reference to any petition when such petition is not legally sufficient.

Section 1745, Revised Code of Arizona, 1928, makes provision for the Secretary of State to furnish a copy to the Clerks of Supervisors, and defines the manner of the printing on the ballots of the reference to said petitions.

Section 1746, Revised Code of Arizona, 1928, describes and provides for the publicity pamphlets, specifying, among other things, that the person filing a petition, and no other, may file with the Secretary of State for printing and distribution any argument advocating the measure or proposed constitutional amendment set forth in such petition, and providing further that any person may file with the Secretary of State for printing and distribution an argument opposing any measure or proposed constitutional amendment. This section provides further "that arguments advocating or opposing any measure, referred to the people may be filed within the same time, but may be filed by any person or organization \*\*\*", and further that the person offering such argument for printing and distribution shall pay to the Secretary of State sufficient money to pay the expenses for the paper and printing to supply one copy with every copy of the measure, etc. This section also provides that the title page of each argument shall show the measure or proposed amendment which favors or opposes, and by what persons it is issued. Also that the Secretary of State shall transmit by mail, postage prepaid, to every voter in the state whose address he may have, one copy of such pamphlet, etc.

Section 1747, Revised Code of Arizona, 1928,

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provides a penalty of "a fine not to exceed \$500,000, or by imprisonment in the penitentiary not exceeding two years or by both such fine and imprisonment" for "any person who directly or indirectly, makes, publishes, circulates or presents before the public in this state, in any way, any advertisement, argument, advice or statement, in favor or against any initiative or referendum measure or amendment to the Constitution, without clearly setting forth therein the true name of the person or organization making, publishing, circulating, or presenting the same before the public, together with the true name and the address of the persons, or the officers, directors and not less than five members of the organization, directly or indirectly causing the same to be made, published, circulated or printed before the public, or defraying the expenses thereof, in whole or in part".

Section 1748, Revised Code of Arizona, 1928, provides the method of counting and canvassing the votes on initiative and referendum petitions, and the Governor's Proclamation concerning the same, while section 1749 provides for the initiative and referendum in cities and towns.

Section 1750, Revised Code of Arizona, 1928, provides for a referendum petition against municipal ordinance and franchises, while section 1751 deals with initiative petitions in cities and actions of a city council, and section 1752 provides for initiative and referendum on county matters. Section 1753 defines "qualified electors" who may sign petitions, while section 1754 provides the penalty for filing false petitions or for destroying or suppressing initiative or referendum petitions.

Not knowing exactly the precise question you have in mind I have tried to cover the subject, generally, by the above references, and in case the matter is not clear to you from the above, I shall be glad to go more into detail, if you will advise the exact question at issue.

Yours very truly,  
John L. Sullivan,  
Attorney General.

A. I. Winsett,  
Assistant Attorney General.

AIW:m