

**(For) SCR1034 - Proposition 128 - voter protection act; court determinations**

Proposition 128 keeps the Voter Protection Act firmly in place, meaning that the legislature will still be unable to change or over-ride measures passed by the voters as long as those measures are Constitutional and in compliance with the law. It does solve a problem that has occurred on several occasions in the past and will likely occur again in the future.

Groups putting initiatives onto the ballot sometimes make drafting errors or otherwise include language that is later found by the courts to be unconstitutional or illegal according to existing law. When this occurs, the court is faced with the difficult determination of whether to strike down the entire proposition.

Under current law, the state legislature is powerless to correct the illegal or unconstitutional language. This means that proponents of the proposition may have to go back to the drawing board, starting over with the entire costly and lengthy process of getting a new initiative on the ballot in the next election. During the interim, the measure previously approved by voters would not be in effect.

With Proposition 128, the legislature could make limited corrections to the proposition that either remove the illegal or unconstitutional language or redraft it in a way that is lawful. This is a simple solution that protects the will of the voters and improves the initiative process.

Vote YES on Proposition 128!

**Suzanne Kinney, President & CEO, Arizona Chapter of NAIOP, Phoenix**

Proposition 128 is a straightforward solution to a reoccurring issue with voter-approved ballot measures: legally broken and/or unconstitutional language.

Due to the fact that many measures are thrown together by out-of-state special interest groups, they will often include provisions that have not been well vetted or are out of conformity with Arizona's constitution. This occurred with the measure bankrolled by out-of-state organization "Stand for Children" to double the state income tax in 2020. Drafters clumsily at best, recklessly at worst, referred to voters a legally defunct initiative. This year it was ruled unconstitutional by The Arizona Supreme Court and was struck down in its entirety.

Currently, there is no simple mechanism to fix a broken measure, except to have it go back to the voters, a costly and confusing option.

Prop 128 ameliorates this problem by providing a narrow modification to the Voter Protection Act. It would instead allow the legislature to amend an initiative AFTER The Arizona or United States Supreme Court determined the initiative included illegal or unconstitutional language.

This would be a major improvement to an awkward dilemma. Voters expect when they are presented with a proposition that the language before them is thoughtful and has been legally scrutinized. Lacking this front-end protection of the process, Prop 128 is a good back-end policy to ensure broken laws passed by voters can be rectified.

Vote YES on Prop 128 to ensure there is a process to improve measures passed by the voters!

**Aimee Yentes, Arizona Free Enterprise Club, Gilbert**

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Arizona is one of the few states in the country that has a Voter Protection Act, which prohibits voter approved measures from being changed or amended by the state legislature. In fact, Arizona has the ONLY VPA that has basically no limitation. Meaning a measure approved at the ballot box is “protected” into perpetuity from the legislature changing it and if they do amend it they must do it by a super majority AND “further the intent” of the measure. This was an experimental policy.

Though this radical VPA may have been well-intentioned at the time of passage, it has created many problems since.

For example, some language in these measures can be deemed unconstitutional or illegal by the courts. In these situations, there is not currently an easy solution to bring these measures into conformity with the law.

That is why voters should support Prop 128, which is a narrow amendment to the Voter Protection Act so that the State legislature can fix measures that have broken illegal language as determined by the courts.

Prop. 128 is a commonsense amendment that makes it easier for Arizona’s laws to be consistent with the constitution of our state. Vote YES!

**Mona Mellegard, Scottsdale**

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One of the bedrocks of our great nation is that we are governed by the rule of law. In 1998, The Voter Protection Act was passed, which amended the state constitution preventing the legislature from repealing or amending propositions approved by the voters.

Currently, this does mean that if a proposition approved by the voters is later deemed unconstitutional by either the Arizona Supreme Court or US Supreme Court, it cannot be amended in order to correct that which is illegal or unconstitutional.

If language in a measure is found to be illegal or unconstitutional, what Prop. 128 does is amend the Voter Protection Act to allow the legislature to amend the measure to be brought back into concurrency with the law.

Prop 128 makes it easier for corrections to be made for consistency in Arizona’s laws. Vote YES!

**Karen LeBanz-Barnes, Queen Creek**

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Prop. 128 is about one thing – creating an easy solution to the problem that occurs when language in a ballot initiative measure is found to be illegal or unconstitutional.

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Currently, the process to amend and correct the language that is found to be illegal or unconstitutional can take years, tons of money, and energy on the part of those involved on both sides of the aisle. And after all that, it might not even be successful in correcting the errors.

Prop. 128 allows the state legislature to amend the illegal or unconstitutional language found in a measure passed by the voters, reducing to a minimum the time, money, and energy of all involved

Vote YES for Prop. 128 and help make this commonsense reform a reality

**Heather Turley, Mesa**

*Arizona Free Enterprise Club*

The Arizona Chamber of Commerce and Industry strongly urges you to vote YES on Proposition 128.

Proposition 128 is simple. If a proposition is found to contain illegal or unconstitutional language by the Arizona Supreme Court or the U.S. Supreme Court, it can be fixed.

Proposition 128 ensures the Legislature can correct the mistakes of out-of-state special interests using our ballot box to impose their views on Arizona.

Under our current system, there is virtually no way for our elected representatives to fix an unconstitutional initiative. Proposition 128 enhances the credibility of the initiative system by allowing our elected legislators to amend a measure approved by voters if it's found to contain any unconstitutional language by the Arizona Supreme Court or the U.S. Supreme Court.

Arizona's open system remains attractive to out-of-state activist groups seeking to impose on us policies that are not in Arizona's best interest. It is more urgent than ever to provide stronger protections around Arizona's system of direct democracy.

Preserving the power of the people is core to our democracy, but if language is enacted that is clearly in violation of the law or state Constitution then we must allow a path for our elected policymakers to correct course.

We urge you to vote YES on Proposition 128 to help protect the citizen initiative process.

Danny Seiden  
President and CEO  
Arizona Chamber of Commerce & Industry

**Danny Seiden, President & CEO, Arizona Chamber of Commerce & Industry, Phoenix**

Arizona has a strong citizen initiative process that prohibits lawmakers from changing laws initiated by citizens. But this doesn't always have the desired effect. In fact, it can lock Arizona into illegal or unconstitutional law, costing taxpayers a lot of money in legal fees.

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All laws, whether passed by elected officials or by voters are bound by the U.S. and Arizona Constitutions.

The proposed amendment allows the Arizona Legislature to amend or repeal a voter-approved ballot initiative if the Arizona Supreme Court or the U.S. Supreme Court declares any part of it unconstitutional or illegal.

This will result in well-researched, well-written citizen initiatives that meet the requirements of constitutional law, benefitting both initiators and voters alike.

Please vote YES.

**Cathi Herrod, President, Center for Arizona Policy Action, Phoenix**

When Arizona voters approved the Voter Protection Act in 1998, they did not know all of the ramifications. One issue not anticipated was if any part of the measure approved was later deemed unconstitutional by the court. The VPA did not contemplate a fix for this. Which is one problem with how far the VPA goes...

It is time to fix this problem. Prop 128 is a narrowly tailored solution to what voters in 1998 did not intend - that measures, despite being deemed illegal or unconstitutional, could NEVER be fixed!

The voting electorate in 2022 is VASTLY different than it was in 1998. Now we have the history to see how measures can be poorly drafted, be taken to the court, and then be unfixable under current law.

Prop. 128 is simple legislation voters can read themselves and understand. We can't go back and warn the 1999 voters about this flaw in the VPA, but we as voters in 2022 can fix this now! Vote YES on Prop 128!

**Patricia Keitel, Sun City**

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Ballot measures are often written by out of state special interest groups with an agenda to radically change Arizona. These special interest groups are not very familiar with Arizona law or Arizona's constitution. As a result, many of these initiatives have been poorly drafted and not in conformance with our state's constitution.

These measures inevitably get challenged in court. When the Supreme Court eventually deems provisions of the initiative unconstitutional, the current Voter Protection Act (passed by the electorate in 1998) lacks a mechanism to remedy this violation.

Prop 128 repairs this legal conflict.

Though Prop 128, in my opinion, does not go far enough to fix ALL the issues with the "Voter Protection

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Act” and stop radical out-of-state special interests from buying our ballot box, it is a step in the right direction.

VOTE YES on Prop 128 and keep out-of-state special interest groups from taking a wrecking ball to Arizona’s laws!

**LouAnn Sedgwick, Chandler**

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The Voter Protection Act is a part of our state constitution here in Arizona which says that anything passed by the voters is unable to be amended or repealed by the state legislature unless it furthers the measure’s intended purpose and receives a 3/4ths majority in both houses. These measures can only be repealed or reversed if it goes back to the voters. This makes it extremely difficult to correct language in these measures that are later found to be unconstitutional or illegal by the Arizona or US Supreme Courts.

So, is there an easy way to fix these issues? Yes, Prop. 128 creates an easy solution.

What Prop. 128 does is allow the Arizona state legislature to go in and amend a measure that has been passed by the voters if it has been found to have this illegal or unconstitutional language in it.

Prop. 128 is a commonsense solution to this problem that saves everyone on all sides of the political spectrum time, energy and money. Vote YES!

**Charmaine Roth, Rio Verde**

Prop 128 is all about making it easier for corrections to be made when ballot initiatives are found to be unconstitutional. The last thing that we want is for our laws to be out of congruence with the state and US constitutions.

Prop. 128 makes it easier for this to happen, allowing the state legislature to amend the portion of the measure that is found to be unconstitutional rather than have it go back through the entire process of going back to the voters, which can take several years and is EXTREMELY EXPENSIVE! Instead, it can get corrected in a matter of months. This common sense reform would be great for our state! Vote Yes for Prop. 128!

**Vanna Joy Thorngate, Peoria**

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