

AMENDMENTS TO LB629

Introduced by Hardin, 48.

1 1. Strike the original sections and insert the following new
2 sections:

3 **Section 1.** (1) Sections 1 to 28 of this act shall be known and may
4 be cited as the County Initiative and Referendum Act.

5 (2) The powers of initiative and referendum are hereby reserved to
6 the qualified electors of each county in the state. The County Initiative
7 and Referendum Act shall govern the use of initiative to enact and the
8 use of referendum to amend or repeal measures affecting the governance of
9 all counties in the state.

10 **Sec. 2.** For purposes of the County Initiative and Referendum Act:

11 (1) Circulator means any person who solicits signatures for an
12 initiative or referendum petition;

13 (2) Measure means an ordinance or a resolution which is within the
14 legislative authority of the county board to pass and which is not
15 excluded from the operation of referendum by the exceptions in section 19
16 of this act;

17 (3) Petition means a document authorized for circulation pursuant to
18 section 3 of this act, or any copy of such document;

19 (4) Place of residence means the street and number of the residence.
20 If there is no street and number for the residence, place of residence
21 means the mailing address;

22 (5) Prospective petition means a sample document containing the
23 information necessary for a completed petition, including a sample
24 signature sheet, which has not yet been authorized for circulation;

25 (6) Qualified electors means all persons registered to vote, at the
26 time the prospective petition is filed, in the jurisdiction governed or
27 to be governed by any measure sought to be enacted by initiative, or

1 amended or repealed by referendum;

2 (7) Residence has the same meaning as in section 32-116; and

3 (8) Signature sheet means a sheet of paper which is part of a
4 petition and which is signed by persons wishing to support the petition
5 effort.

6 **Sec. 3.** Before circulating an initiative or referendum petition,
7 the petitioner shall file with the election commissioner or county clerk
8 a prospective petition. The election commissioner or county clerk shall
9 date the prospective petition immediately upon its receipt. The election
10 commissioner or county clerk shall verify that the prospective petition
11 is in proper form and shall provide a ballot title for the initiative or
12 referendum proposal pursuant to section 4 of this act. If the prospective
13 petition is in proper form, the election commissioner or county clerk
14 shall authorize the circulation of the petition and such authorization
15 shall be given within three working days after the date the prospective
16 petition was filed. If the form of the prospective petition is incorrect,
17 the election commissioner or county clerk shall, within three working
18 days after the date the prospective petition was filed, inform the
19 petitioner of necessary changes and request that those changes be made.
20 When the requested changes have been made and the revised prospective
21 petition has been submitted to the election commissioner or county clerk
22 in proper form, the election commissioner or county clerk shall authorize
23 the circulation of the petition and such authorization shall be given
24 within two working days after the receipt of the properly revised
25 petition. Verification by the election commissioner or county clerk that
26 the prospective petition is in proper form does not constitute an
27 admission by the election commissioner or county clerk or county board
28 that the measure is subject to referendum or limited referendum or that
29 the measure may be enacted by initiative.

30 **Sec. 4.** (1) The ballot title of any measure to be initiated or
31 referred shall consist of:

1 (a) A briefly worded caption by which the measure is commonly known
2 or which accurately summarizes the measure;

3 (b) A briefly worded question which plainly states the purpose of
4 the measure and is phrased so that an affirmative response to the
5 question corresponds to an affirmative vote on the measure; and

6 (c) A concise and impartial statement, of not more than seventy-five
7 words, of the chief purpose of the measure.

8 (2) The ballots used when voting on an initiative or referendum
9 proposal shall contain the entire ballot title. Proposals for initiative
10 and referendum shall be submitted on separate ballots and the ballots
11 shall be printed in lowercase ten-point type, except that the caption
12 shall be in boldface type. All initiative and referendum measures shall
13 be submitted in a nonpartisan manner without indicating or suggesting on
14 the ballot that they have or have not been approved or endorsed by any
15 political party or organization.

16 **Sec. 5.** The Secretary of State shall design the form to be used for
17 initiative and referendum petitions. The petitions shall conform to
18 section 32-628. These forms shall be made available to the public by the
19 election commissioner or county clerk, and they shall serve as a guide
20 for individuals preparing prospective petitions. Substantial compliance
21 with initiative and referendum forms is required before authorization to
22 circulate such petition shall be granted by the election commissioner or
23 county clerk pursuant to section 3 of this act. Chief petitioners or
24 circulators preparing prospective petitions shall be responsible for
25 making copies of the petition for circulation after authorization for
26 circulation has been granted.

27 **Sec. 6.** (1) Each petition presented for signature shall be
28 identical to the petition authorized for circulation by the election
29 commissioner or county clerk pursuant to section 3 of this act.

30 (2) Every petition shall contain the name and place of residence of
31 not more than three persons as chief petitioners or sponsors of the

1 measure.

2 (3) Every petition shall contain the caption and the statement
3 specified in subdivisions (1)(a) and (c) of section 4 of this act.

4 (4) When a special election is being requested, such fact shall be
5 stated on every petition.

6 **Sec. 7.** Every signature sheet shall:

7 (1) Contain the caption required in subdivision (1)(a) of section 4
8 of this act;

9 (2) Be part of a complete and authorized petition when presented to
10 potential signatories; and

11 (3) Comply with the requirements of section 32-628.

12 **Sec. 8.** Signers and circulators shall comply with sections 32-629
13 and 32-630.

14 **Sec. 9.** (1) Each signed petition shall be filed with the election
15 commissioner or county clerk for signature verification. When the
16 election commissioner or county clerk has determined that one hundred
17 percent of the necessary signatures required by the County Initiative and
18 Referendum Act have been obtained, the election commissioner or county
19 clerk shall notify the county board of that fact and shall immediately
20 forward to the county board a copy of the petition.

21 (2) In order for an initiative or referendum proposal to be
22 submitted to the county board and the voters, the necessary signatures
23 shall be on file with the election commissioner or county clerk within
24 six months after the date the prospective petition was authorized for
25 circulation. If the necessary signatures are not obtained by such date,
26 the petition shall be void.

27 **Sec. 10.** The same measure, either in form or in essential
28 substance, may not be submitted to the qualified electors by initiative
29 petition, either affirmatively or negatively, more often than once every
30 two years. No attempt to repeal or amend an existing measure or portion
31 of such measure by referendum petition may be made within two years after

1 the last attempt to do the same. Such prohibition shall apply only when
2 the subsequent attempt to repeal or amend is designed to accomplish the
3 same, or essentially the same purpose as the previous attempt.

4 **Sec. 11.** Except as provided in subsection (2) of this section, the
5 county board may at any time, by resolution, provide for the submission
6 to a direct vote of the electors of any measure pending before it, passed
7 by it, or enacted by the electors under the County Initiative and
8 Referendum Act and may provide in such resolution that such measure shall
9 be submitted at a special election or the next regularly scheduled
10 primary or general election. Immediately upon the passage of any such
11 resolution for submission, the election commissioner or county clerk
12 shall cause such measure to be submitted to a direct vote of the electors
13 at the time specified in such resolution and in the manner provided in
14 the County Initiative and Referendum Act for submission of measures upon
15 proposals and petitions filed by voters. Such matter shall become law if
16 approved by a majority of the votes cast on the measure.

17 **Sec. 12.** Elections under the County Initiative and Referendum Act,
18 either at a special election or regularly scheduled primary or general
19 election, shall be called by the election commissioner or county clerk.
20 Any special election to be conducted by the election commissioner or
21 county clerk shall be subject to section 32-405.

22 The election commissioner or county clerk shall cause notice of
23 every such election to be printed in one or more legal newspapers in or
24 of general circulation in such county at least once not less than thirty
25 days prior to such election and also posted in the office of the election
26 commissioner or county clerk and in at least three conspicuous places in
27 such county at least thirty days prior to such election.

28 The election commissioner or county clerk shall post on the county's
29 website a copy of measures initiated or referred.

30 **Sec. 13.** All ballots for use in special elections under the County
31 Initiative and Referendum Act shall be prepared by the election

1 commissioner or county clerk and furnished by the county board and shall
2 be in form the same as provided by law for election of the county board.
3 When ordinances under the County Initiative and Referendum Act are
4 submitted to the qualified electors at a regularly scheduled primary or
5 general election, they shall be placed upon the official ballots as
6 provided in the County Initiative and Referendum Act.

7 **Sec. 14.** (1) The power of initiative allows citizens the right to
8 enact measures affecting the governance of each county in the state. An
9 initiative proposal shall not have as its primary or sole purpose the
10 repeal or modification of existing law except if such repeal or
11 modification is ancillary to and necessary for the adoption and effective
12 operation of the initiative measure.

13 (2) An initiative shall not be effective if the direct or indirect
14 effect of the passage of such initiative measure is to repeal or alter an
15 existing law, or portion thereof, which is not subject to referendum or
16 subject only to limited referendum pursuant to section 19 of this act.

17 **Sec. 15.** Whenever an initiative petition bearing signatures equal
18 in number to at least fifteen percent of the qualified electors of a
19 county has been filed with the election commissioner or county clerk and
20 verified pursuant to section 9 of this act the county board shall
21 consider passage of the measure contained in the petition. If the county
22 board fails to pass the measure without amendment within thirty days from
23 the date it received notification pursuant to section 9 of this act, the
24 election commissioner or county clerk shall cause the measure to be
25 submitted to a vote of the qualified electors at the next regularly
26 scheduled primary or general election held within the county. If the
27 county board desires to submit the measure to a vote of the qualified
28 electors at a special election prior to the next regularly scheduled
29 primary or general election held within the county, the county board
30 shall, by resolution, direct the election commissioner or county clerk to
31 cause the measure to be submitted at a special election. Such resolution

1 shall not be subject to referendum or limited referendum.

2 **Sec. 16.** Whenever an initiative petition bearing signatures equal
3 in number to at least twenty percent of the qualified electors of a
4 county, which petition requests that a special election be called to
5 submit the initiative measure to a vote of the qualified electors, has
6 been filed with the election commissioner or county clerk and verified
7 pursuant to section 9 of this act, the county board shall consider
8 passage of the measure contained in the petition. If the county board
9 fails to pass the measure, without amendment within thirty days after the
10 date it received notification pursuant to section 9 of this act, the
11 election commissioner or county clerk shall cause the measure to be
12 submitted to a vote of the qualified electors at a special election
13 called for such purpose. Subject to section 12 of this act, the date of
14 such election shall be set during the first available month that complies
15 with sections 32-405 and 32-559.

16 **Sec. 17.** If a majority of the voters voting on an initiative
17 measure pursuant to the County Initiative and Referendum Act vote in
18 favor of such measure, it shall become a valid and binding measure of the
19 county thirty days after certification of the election results, unless
20 the county board by resolution orders an earlier effective date or the
21 measure itself provides for a later effective date, which resolution
22 shall not be subject to referendum or limited referendum. A measure
23 passed by such method shall not be amended or repealed except by a two-
24 thirds majority of the members of the county board. No such attempt to
25 amend or repeal shall be made within one year after the passage of the
26 measure by the qualified electors.

27 **Sec. 18.** The power of referendum allows citizens the right to
28 repeal or amend existing measures, or portions thereof, affecting the
29 governance of each county in the state.

30 **Sec. 19.** (1) The following measures shall not be subject to
31 referendum or limited referendum:

1 (a) Measures necessary to carry out contractual obligations,
2 including, but not limited to, those relating to the issuance of or
3 provided for in bonds, notes, warrants, or other evidences of
4 indebtedness, for projects previously approved by a measure which was, or
5 is, subject to referendum or limited referendum or previously approved by
6 a measure adopted prior to the effective date of this act;

7 (b) Measures relating to any industrial development projects,
8 subsequent to measures giving initial approval to such projects;

9 (c) Measures adopting proposed budget statements following
10 compliance with procedures set forth in the Nebraska Budget Act;

11 (d) Measures relating to the immediate preservation of the public
12 peace, health, or safety which have been designated as urgent measures by
13 unanimous vote of those present and voting of the county board;

14 (e) Measures relating to projects for which notice has been given as
15 provided for in subsection (4) of this section and for which a sufficient
16 referendum petition was not filed within the time limit stated in such
17 notice or which received voter approval after the filing of such
18 petition;

19 (f) Resolutions directing the election commissioner or county clerk
20 to cause measures to be submitted to a vote of the people at a special
21 election as provided in sections 15 and 20 of this act;

22 (g) Resolutions ordering an earlier effective date for measures
23 enacted by initiative as provided in section 17 of this act;

24 (h) Measures relating to any facility or system adopted or enacted
25 pursuant to the Integrated Solid Waste Management Act by counties and
26 which are necessary to carry out contractual obligations provided for in
27 previously issued bonds, notes, warrants, or other evidences of
28 indebtedness;

29 (i) Measures that amend, supplement, change, modify, or repeal a
30 zoning regulation, restriction, or boundary and are subject to protest as
31 provided in section 23-165; and

1 (j) Measures relating to personnel issues, including, but not
2 limited to, establishment, modification, or elimination of any personnel
3 position, policy, salary, or benefit and any hiring, promotion, demotion,
4 or termination of personnel.

5 (2) The following measures shall be subject to limited referendum:

6 (a) Measures in furtherance of a policy of the county or relating to
7 projects previously approved by a measure which was subject to referendum
8 or which was enacted by initiative or has been approved by the voters at
9 an election, except that such measures shall not be subject to referendum
10 or limited referendum for a period of one year after any such policy or
11 project was approved at a referendum election, enacted by initiative, or
12 approved by the voters at an election;

13 (b) Measures relating to the acquisition, construction,
14 installation, improvement, or enlargement, including the financing or
15 refinancing of the costs, of public ways, public property, utility
16 systems, and other capital projects and measures giving initial approval
17 for industrial development projects;

18 (c) Measures setting utility system rates and charges, except for
19 measures necessary to carry out contractual obligations provided for in
20 previously issued bonds, notes, warrants, or other evidences of
21 indebtedness, and pay rates and salaries for county employees other than
22 the members of the county board; and

23 (d) Measures relating to any facility or system adopted or enacted
24 pursuant to the Integrated Solid Waste Management Act by counties except
25 for measures necessary to carry out contractual obligations provided for
26 in previously issued bonds, notes, warrants, or other evidences of
27 indebtedness.

28 (3) Measures subject to limited referendum shall ordinarily take
29 effect thirty days after their passage by the county board. Referendum
30 petitions directed at measures subject to limited referendum shall be
31 filed for signature verification pursuant to section 9 of this act within

1 thirty days after such measure's passage by the county board or after
2 notice is first published pursuant to subdivision (4)(c) of this section.
3 If the necessary number of signatures as provided in section 20 or 21 of
4 this act has been obtained within the time limitation, the effectiveness
5 of the measure shall be suspended unless approved by the voters.

6 (4) For any measure relating to the acquisition, construction,
7 installation, improvement, or enlargement of public ways, public
8 property, utility systems, or other capital projects or any measure
9 relating to any facility or system adopted or enacted pursuant to the
10 Integrated Solid Waste Management Act, a county may exempt all subsequent
11 measures relating to the same project from the referendum and limited
12 referendum procedures provided for in the County Initiative and
13 Referendum Act by the following procedure:

14 (a) By holding a public hearing on the project, the time and place
15 of such hearing being published at least once not less than five days
16 prior to the date set for hearing in a legal newspaper in or of general
17 circulation within the county;

18 (b) By passage of a measure approving the project at a meeting held
19 on any date subsequent to the date of hearing; and

20 (c) After passage of such measure, by giving notice as follows: (i)
21 For those projects for which applicable statutes require an ordinance or
22 resolution of necessity, creating a district or otherwise establishing
23 the project, notice shall be given for such project by including, either
24 as part of such ordinance or resolution or as part of any publicized
25 notice concerning such ordinance or resolution, a statement that the
26 project as described in the ordinance or resolution is subject to limited
27 referendum for a period of thirty days after the first publication of
28 such notice and that, after such thirty-day period, the project and
29 measures related to it will not be subject to any further right of
30 referendum; and (ii) for projects for which applicable statutes do not
31 require an ordinance or resolution of necessity, notice shall be given by

1 publication of a notice concerning such projects stating in general terms
2 the nature of the project and the engineer's estimate of costs of such
3 project and stating that the project described in the notice is subject
4 to limited referendum for a period of thirty days after the first
5 publication of such notice and that, after such thirty-day period, the
6 project and measures related to it will not be subject to any further
7 right of referendum. The notice required by subdivision (c)(ii) of this
8 subsection shall be published in at least one legal newspaper in or of
9 general circulation within the county and shall be published not later
10 than fifteen days after passage by the county board of a measure
11 approving the project.

12 The right of a county to hold such a hearing prior to passage of the
13 measure by the county board and give such notice after passage of such
14 measure by the county board to obtain exemption for any particular
15 project in a manner described in this subsection is optional, and no
16 county shall be required to hold such a hearing or give such notice for
17 any particular project.

18 (5) All measures, except as provided in subsections (1), (2), and
19 (4) of this section, shall be subject to the referendum procedure at any
20 time after such measure has been passed by the county board or enacted by
21 the voters by initiative.

22 **Sec. 20.** Whenever a referendum petition bearing signatures equal in
23 number to at least fifteen percent of the qualified electors of a county
24 has been filed with the election commissioner or county clerk and
25 verified pursuant to section 9 of this act, the county board shall
26 reconsider the measure or portion of such measure which is the object of
27 the referendum. If the county board fails to repeal or amend the measure
28 or portion thereof in the manner proposed by the referendum within thirty
29 days after the date the county board receives notification pursuant to
30 section 9 of this act, the election commissioner or county clerk shall
31 cause the measure to be submitted to a vote of the qualified electors at

1 the next regularly scheduled primary or general election held within the
2 county. If the county board desires to submit the measure to a vote of
3 the qualified electors at a special election prior to the next regularly
4 scheduled primary or general election held within the county, the county
5 board shall, by resolution, direct the election commissioner or county
6 clerk to cause the measure to be submitted at a special election. Such
7 resolution shall not be subject to referendum or limited referendum.

8 **Sec. 21.** Whenever a referendum petition bearing signatures equal in
9 number to at least twenty percent of the qualified electors of a county,
10 which petition requests that a special election be called to submit the
11 referendum measure to a vote of the qualified electors, has been filed
12 with the election commissioner or county clerk and verified pursuant to
13 section 9 of this act, the county board shall reconsider the measure or
14 portion of such measure which is the object of the referendum. If the
15 county board fails to repeal or amend the measure or portion thereof, in
16 the manner proposed by the referendum, the election commissioner or
17 county clerk shall cause the measure to be submitted to a vote of the
18 qualified electors at a special election called for such purpose within
19 thirty days after the date the county board received notification
20 pursuant to section 9 of this act. Subject to section 12 of this act, the
21 date of such special election shall be set during the first available
22 month that complies with sections 32-405 and 32-559.

23 **Sec. 22.** If a majority of the electors voting on the referendum
24 measure vote in favor of such measure, the law subject to the referendum
25 shall be repealed or amended. A measure repealed or amended by referendum
26 shall not be reenacted or returned to its original form except by a two-
27 thirds majority of the members of the county board. No such attempt to
28 reenact or return the measure to its original form shall be made within
29 one year of the repeal or amendment of the measure by the qualified
30 electors. If the referendum measure does not receive a majority vote, the
31 ordinance shall immediately become effective or remain in effect.

1 **Sec. 23.** Whoever knowingly or willfully makes a false affidavit or
2 takes a false oath regarding the qualifications of any person to sign
3 petitions under the County Initiative and Referendum Act shall be guilty
4 of a Class I misdemeanor with a fine not to exceed three hundred dollars.

5 **Sec. 24.** Whoever falsely makes or willfully destroys a petition or
6 any part thereof, or signs a false name thereto, or signs or files any
7 petition knowing the same or any part thereof to be falsely made, or
8 suppresses any petition, or any part thereof, which has been duly filed,
9 pursuant to the County Initiative and Referendum Act shall be guilty of a
10 Class I misdemeanor with a fine not to exceed five hundred dollars.

11 **Sec. 25.** Whoever signs any petition under the County Initiative and
12 Referendum Act, knowing that such person is not a registered voter in the
13 place where such petition is made, aids or abets any other person in
14 doing any of the acts mentioned in this section, bribes or gives or pays
15 any money or thing of value to any person directly or indirectly to
16 induce such person to sign such petition, or engages in any deceptive
17 practice intended to induce any person to sign a petition, shall be
18 guilty of a Class I misdemeanor with a fine not to exceed three hundred
19 dollars.

20 **Sec. 26.** Any election commissioner or county clerk who willfully
21 refuses to comply with the County Initiative and Referendum Act or who
22 willfully causes unreasonable delay in the execution of such election
23 commissioner's or county clerk's duties under the County Initiative and
24 Referendum Act shall be guilty of a Class I misdemeanor, but imprisonment
25 shall not be included as part of the punishment.

26 **Sec. 27.** The Election Act, so far as applicable and when not in
27 conflict with the County Initiative and Referendum Act, shall apply to
28 voting on ordinances by the registered voters pursuant to the County
29 Initiative and Referendum Act.

30 **Sec. 28.** The county board or any chief petitioner may seek a
31 declaratory judgment regarding any questions arising under the County

1 Initiative and Referendum Act, as it may be from time to time amended,
2 including, but not limited to, determining whether a measure is subject
3 to referendum or limited referendum or whether a measure may be enacted
4 by initiative. If a chief petitioner seeks a declaratory judgment, the
5 county shall be served as provided in section 25-510.02. If the county
6 board seeks a declaratory judgment, only the chief petitioner or chief
7 petitioners shall be required to be served. Any action brought for
8 declaratory judgment for purposes of determining whether a measure is
9 subject to limited referendum or referendum, or whether a measure may be
10 enacted by initiative, may be filed in the district court at any time
11 after the filing of a referendum or initiative petition with the election
12 commissioner or county clerk for signature verification until forty days
13 after the date the county board received notification pursuant to section
14 9 of this act. If the county board does not bring an action for
15 declaratory judgment to determine whether the measure is subject to
16 limited referendum or referendum or whether the measure may be enacted by
17 initiative until after it has received notification pursuant to section 9
18 of this act, it shall be required to proceed with the initiative or
19 referendum election in accordance with the County Initiative and
20 Referendum Act. If the county board does file such an action prior to
21 receiving notification pursuant to section 9 of this act, it shall not be
22 required to proceed to hold such election until a final decision has been
23 rendered in the action. Any action for a declaratory judgment shall be
24 governed generally by sections 25-21,149 to 25-21,164, as amended from
25 time to time, except that only the county board and each chief petitioner
26 shall be required to be made parties. The county board, election
27 commissioner or county clerk, or any other officers of the county shall
28 be entitled to rely on any order rendered by the court in any such
29 proceeding. Any action brought for declaratory judgment pursuant to this
30 section shall be given priority in scheduling hearings and in disposition
31 as determined by the court. When an action is brought to determine

1 whether the measure is subject to limited referendum or referendum, or
2 whether a measure may be enacted by initiative, a decision shall be
3 rendered by the court no later than five days prior to the election. The
4 provisions of this section relating to declaratory judgments shall not be
5 construed as limiting, but construed as supplemental and additional to
6 other rights and remedies conferred by law.