

House File 764 - Introduced

HOUSE FILE 764
BY COMMITTEE ON GOVERNMENT
OVERSIGHT

(SUCCESSOR TO HSB 247)

A BILL FOR

1 An Act relating to publication and procedural provisions
2 relating to proposed constitutional amendments and including
3 effective date provisions.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 49A.1, Code 2019, is amended to read as
2 follows:

3 **49A.1 Publication of proposed amendment.**

4 1. Whenever any proposition to amend the Constitution has
5 passed the general assembly and been referred to the next
6 succeeding legislature, the state commissioner of elections
7 general assembly shall cause the same to be published as
8 provided in this section, once each month, in two newspapers
9 of general circulation in each congressional district in the
10 state, for the time required by the Constitution.

11 2. For purposes of complying with the publication
12 requirements of this section, the general assembly shall cause
13 the proposition to amend the Constitution to be published, once
14 each month, in two newspapers of general circulation in each
15 congressional district in the state and published, during each
16 month, on an internet site of the general assembly.

17 Sec. 2. Section 49A.3, Code 2019, is amended to read as
18 follows:

19 **49A.3 Proof of publication — record — ~~report to~~**
20 **legislature.**

21 1. Proof of the publication required by section 49A.1
22 shall be filed by the general assembly in the office of the
23 state commissioner of elections, recorded in a book kept for
24 that purpose, and preserved by the commissioner. Proof of
25 publication required by this subsection shall be made by the
26 general assembly as follows:

27 a. Proof of publication by newspaper shall be made by filing
28 in the office of the state commissioner of elections affidavits
29 of the publishers of the newspapers designated by the general
30 assembly for publication and a certificate by the general
31 assembly of the selection of such newspapers.

32 b. Proof of publication on an internet site of the general
33 assembly shall be made by filing a certificate by the general
34 assembly in the office of the state commissioner of elections
35 that publication as described in this paragraph has been made

1 as required by law.

2 2. Proof of the publication specified in ~~sections 49A.1 and~~
3 section 49A.2 shall be made by the affidavits of the publishers
4 of the newspapers designated by the state commissioner of
5 elections and such affidavits, with the certificate of the
6 state commissioner of the selection of such newspapers, shall
7 be filed in the commissioner's office, recorded in a book kept
8 for that purpose, and preserved by the commissioner, ~~and in the~~
9 ~~case of constitutional amendments the commissioner shall report~~
10 ~~to the following legislature the action in the premises.~~

11 Sec. 3. Section 49A.5, Code 2019, is amended to read as
12 follows:

13 **49A.5 Submission at special election.**

14 The general assembly may provide for the submission
15 of a constitutional amendment to the people at a special
16 election for that purpose, at such time as it may prescribe,
17 ~~proclamation for which election shall be made by the governor,~~
18 and the same shall in all respects be governed and conducted
19 as prescribed by law for the submission of a constitutional
20 amendment at a general election.

21 Sec. 4. Section 49A.9, Code 2019, is amended to read as
22 follows:

23 **49A.9 Expenses.**

24 Expenses incurred under the provisions of ~~this chapter~~ shall
25 be audited and allowed by the director of the department of
26 administrative services and paid out of any money ~~in the state~~
27 ~~treasury not otherwise appropriated~~ to the state commissioner
28 of elections.

29 Sec. 5. Section 49A.10, Code 2019, is amended to read as
30 follows:

31 **49A.10 Action to test legality.**

32 1. Whenever an amendment to the Constitution of the State
33 of Iowa shall have been proposed and agreed to by the general
34 assembly and shall have been agreed to by the succeeding
35 general assembly, any taxpayer may file suit in equity in

1 the district court at the seat of government of the state,
2 challenging the validity, legality or constitutionality of
3 such amendment, ~~or the procedure connected therewith,~~ and
4 in such suit the district court shall have jurisdiction to
5 determine the validity, legality or constitutionality of said
6 amendment ~~or the procedure connected therewith,~~ and enter
7 its decree accordingly, and may grant a writ of injunction
8 enjoining the governor and state commissioner of elections
9 from submitting such constitutional amendment, ~~if it, or the~~
10 ~~procedure connected therewith,~~ the proposed constitutional
11 amendment shall have been found to be invalid, illegal or
12 unconstitutional.

13 2. An amendment to the Constitution of the State of
14 Iowa which has been proposed and agreed to by the general
15 assembly and has been agreed to by the succeeding general
16 assembly shall not be determined invalid in any action
17 challenging the validity, legality, or constitutionality of
18 such amendment in the event of an error or omission occurring
19 with the publication requirements of section 49A.1 and shall
20 be submitted to the electorate for ratification at the next
21 general or special election as determined by the general
22 assembly.

23 Sec. 6. REPEAL. Section 49A.7, Code 2019, is repealed.

24 Sec. 7. EFFECTIVE DATE. This Act, being deemed of immediate
25 importance, takes effect upon enactment.

26 EXPLANATION

27 The inclusion of this explanation does not constitute agreement with
28 the explanation's substance by the members of the general assembly.

29 This bill concerns certain publication and procedural
30 requirements relating to proposed constitutional amendments.

31 Code section 49A.1 is amended to require the general
32 assembly, and not the state commissioner of elections, to
33 publish a proposition to amend the Constitution once the
34 proposition has passed the general assembly and been referred
35 to the next succeeding legislature for the time required by

1 the Constitution. In addition to publication by newspaper
2 as authorized by current law, the bill requires the general
3 assembly to publish on an internet site of the general
4 assembly.

5 Code section 49A.3, concerning proof of publication,
6 is amended for purposes of publication of a proposed
7 constitutional amendment. The bill requires the general
8 assembly, and not the state commissioner of elections, to file
9 proof of publication to the state commissioner of elections
10 and specifies the proof required depending on the manner of
11 publication. For publication by newspaper, the bill requires
12 the general assembly to provide proof as currently required
13 for the state commissioner of elections for publication by
14 newspaper. For publication on an internet site of the general
15 assembly, the bill requires the general assembly to file
16 a certificate in the office of the state commissioner of
17 elections that publication has been made as required by law.

18 Code section 49A.7, repealed by the bill, requires the
19 governor to issue a proclamation at least 60 days before the
20 date a proposition to amend the Constitution is to be submitted
21 to a vote of the electors. Code section 49A.5, governing
22 submission of a proposed constitutional amendment at a special
23 election, is also amended to strike the requirement that the
24 governor issue a proclamation on the special election.

25 Code section 49A.9 is amended to provide that expenses
26 incurred under Code chapter 49A shall be paid from money
27 appropriated to the state commissioner of elections and not
28 from money not otherwise appropriated.

29 Code section 49A.10, which authorizes a suit by a taxpayer to
30 challenge the legality of a proposed constitutional amendment,
31 is amended to strike the ability of the taxpayer to challenge
32 the procedure connected with the proposed amendment. In
33 addition, the bill provides that a proposed constitutional
34 amendment agreed to by two succeeding general assemblies shall
35 be submitted to the electorate for ratification and shall not

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1 be determined invalid as a result of an error or omission
2 occurring with the publication requirements of Code section
3 49A.1.
4 The bill takes effect upon enactment.