Senate Engrossed House Bill

FILED

JANICE K. BREWER
SECRETARY OF STATE

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
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HOUSE CONCURRENT RESOLUTION 2036

A CONCURRENT RESOLUTION

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF ARIZONA; REPEALING ARTICLE XXVIII, CONSTITUTION OF ARIZONA; AMENDING THE CONSTITUTION OF ARIZONA BY ADDING A NEW ARTICLE XXVIII; RELATING TO ENGLISH AS THE OFFICIAL LANGUAGE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Whereas, the United States is comprised of individuals from diverse ethnic, cultural and linguistic backgrounds, and continues to benefit from this rich diversity; and

Whereas, throughout the history of the United States, the common thread binding individuals of differing backgrounds has been the English language, which has permitted diverse individuals to discuss, debate and come to agreement on contentious issues; and

Whereas, in recent years, the role of the English language as a common language has been threatened by governmental actions that either ignore or harm the role of English or that promote the use of languages other than English in official governmental actions, and these governmental actions promote division, confusion, error and inappropriate use of resources; and

Whereas, among the powers reserved to the States respectively is the power to establish the English language as the official language of the respective States, and otherwise to promote the English language within the respective States, subject to the prohibitions enumerated in the Constitution of the United States and federal statutes.

Therefore

Be it resolved by the House of Representatives of the State of Arizona, the Senate concurring:

1. Article XXVIII, Constitution of Arizona, is proposed to be repealed as follows if approved by the voters and on proclamation of the Governor:

Article XXVIII, Constitution of Arizona, relating to English as the official language, is repealed.

2. A new article XXVIII, Constitution of Arizona, is proposed to be added as follows if approved by the voters and on proclamation of the Governor:

ARTICLE XXVIII. ENGLISH AS THE OFFICIAL LANGUAGE

1. <u>Definitions</u>

SECTION 1. IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "GOVERNMENT" INCLUDES ALL LAWS, PUBLIC PROCEEDINGS, RULES, PUBLICATIONS, ORDERS, ACTIONS, PROGRAMS, POLICIES, DEPARTMENTS, BOARDS, AGENCIES, ORGANIZATIONS AND INSTRUMENTALITIES OF THIS STATE OR POLITICAL SUBDIVISIONS OF THIS STATE, AS APPROPRIATE UNDER THE CIRCUMSTANCES TO A PARTICULAR OFFICIAL ACTION.

2. "OFFICIAL ACTION" INCLUDES THE PERFORMANCE OF ANY FUNCTION OR ACTION ON BEHALF OF THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE OR REQUIRED BY STATE LAW THAT APPEARS TO PRESENT THE VIEWS, POSITION OR IMPRIMATUR OF THE STATE OR POLITICAL SUBDIVISION OR THAT BINDS OR COMMITS THE STATE OR POLITICAL SUBDIVISION, BUT DOES NOT INCLUDE:

(a) THE TEACHING OF OR THE ENCOURAGEMENT OF LEARNING LANGUAGES OTHER THAN ENGLISH.

(b) ACTIONS REQUIRED UNDER THE FEDERAL INDIVIDUALS WITH DISABILITIES EDUCATION ACT OR OTHER FEDERAL LAWS.

(c) ACTIONS, DOCUMENTS OR POLICIES NECESSARY FOR TOURISM, COMMERCE OR INTERNATIONAL TRADE.

(d) ACTIONS OR DOCUMENTS THAT PROTECT THE PUBLIC HEALTH AND SAFETY, INCLUDING LAW ENFORCEMENT AND EMERGENCY SERVICES.

(e) ACTIONS THAT PROTECT THE RIGHTS OF VICTIMS OF CRIMES OR CRIMINAL DEFENDANTS.

(f) USING TERMS OF ART OR PHRASES FROM LANGUAGES OTHER THAN ENGLISH.

(g) USING OR PRESERVING NATIVE AMERICAN LANGUAGES.

(h) PROVIDING ASSISTANCE TO HEARING IMPAIRED OR ILLITERATE PERSONS.

(i) INFORMAL AND NONBINDING TRANSLATIONS OR COMMUNICATIONS AMONG OR BETWEEN REPRESENTATIVES OF GOVERNMENT AND OTHER PERSONS IF THIS ACTIVITY DOES NOT AFFECT OR IMPAIR SUPERVISION, MANAGEMENT, CONDUCT OR EXECUTION OF OFFICIAL ACTIONS AND IF THE REPRESENTATIVES OF GOVERNMENT MAKE CLEAR THAT THESE TRANSLATIONS OR COMMUNICATIONS ARE UNOFFICIAL AND ARE NOT BINDING ON THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE.

(j) ACTIONS NECESSARY TO PRESERVE THE RIGHT TO PETITION FOR THE REDRESS OF GRIEVANCES.

3. "PRESERVE, PROTECT AND ENHANCE THE ROLE OF ENGLISH" INCLUDES:

(a) AVOIDING ANY OFFICIAL ACTIONS THAT IGNORE, HARM OR DIMINISH THE ROLE OF ENGLISH AS THE LANGUAGE OF GOVERNMENT.

(b) PROTECTING THE RIGHTS OF PERSONS IN THIS STATE WHO USE ENGLISH.

(c) ENCOURAGING GREATER OPPORTUNITIES FOR INDIVIDUALS TO LEARN THE ENGLISH LANGUAGE.

(d) TO THE GREATEST EXTENT POSSIBLE UNDER FEDERAL STATUTE, PROVIDING SERVICES, PROGRAMS, PUBLICATIONS, DOCUMENTS AND MATERIALS IN ENGLISH.

4. "REPRESENTATIVES OF GOVERNMENT" INCLUDES ALL INDIVIDUALS OR ENTITIES DURING THE PERFORMANCE OF THE INDIVIDUAL'S OR ENTITY'S OFFICIAL ACTIONS.

2. <u>Official language of Arizona</u>

SECTION 2. THE OFFICIAL LANGUAGE OF THE STATE OF ARIZONA IS ENGLISH.

3. <u>Preserving and enhancing the role of the official language; right to use English</u>

SECTION 3. A. REPRESENTATIVES OF GOVERNMENT IN THIS STATE SHALL PRESERVE, PROTECT AND ENHANCE THE ROLE OF ENGLISH AS THE OFFICIAL LANGUAGE OF THE GOVERNMENT OF ARIZONA.

B. A PERSON SHALL NOT BE DISCRIMINATED AGAINST OR PENALIZED IN ANY WAY BECAUSE THE PERSON USES OR ATTEMPTS TO USE ENGLISH IN PUBLIC OR PRIVATE COMMUNICATION.

4. Official actions to be conducted in English

SECTION 4. OFFICIAL ACTIONS SHALL BE CONDUCTED IN ENGLISH.

5. Rules of construction

SECTION 5. THIS ARTICLE SHALL NOT BE CONSTRUED TO PROHIBIT ANY REPRESENTATIVE OF GOVERNMENT, INCLUDING A MEMBER OF THE LEGISLATURE, WHILE PERFORMING OFFICIAL DUTIES, FROM COMMUNICATING UNOFFICIALLY THROUGH ANY MEDIUM WITH ANOTHER PERSON IN A LANGUAGE OTHER THAN ENGLISH IF OFFICIAL ACTION IS CONDUCTED IN ENGLISH.

6. Standing; notification of attorney general; recovery of costs

SECTION 6. A. A PERSON WHO RESIDES OR DOES BUSINESS IN THIS STATE MAY FILE A CIVIL ACTION FOR RELIEF FROM ANY OFFICIAL ACTION THAT VIOLATES THIS ARTICLE IN A MANNER THAT CAUSES INJURY TO THE PERSON.

B. A PERSON WHO RESIDES OR DOES BUSINESS IN THIS STATE AND WHO CONTENDS THAT THIS ARTICLE IS NOT BEING IMPLEMENTED OR ENFORCED MAY FILE A CIVIL ACTION TO DETERMINE IF THE FAILURE OR INACTION COMPLAINED OF IS A VIOLATION OF THIS ARTICLE AND FOR INJUNCTIVE OR MANDATORY RELIEF.

C. A PERSON SHALL NOT FILE AN ACTION UNDER THIS SECTION UNLESS THE PERSON HAS NOTIFIED THE ATTORNEY GENERAL OF THE ALLEGED VIOLATION AND THE ATTORNEY GENERAL OR OTHER APPROPRIATE REPRESENTATIVE OF GOVERNMENT HAS NOT PROVIDED APPROPRIATE RELIEF WITHIN A REASONABLE TIME UNDER THE CIRCUMSTANCES. AN ACTION FILED UNDER THIS SECTION MAY BE IN ADDITION TO OR IN LIEU OF ANY ACTION BY OFFICERS OF THIS STATE, INCLUDING THE ATTORNEY GENERAL.

D. A PERSON WHO FILES AND IS SUCCESSFUL IN AN ACTION UNDER THIS SECTION MAY BE AWARDED ALL COSTS EXPENDED OR INCURRED IN THE ACTION, INCLUDING REASONABLE ATTORNEY FEES.

3. This amendment is intended to be self-executing and does not require implementing legislation, but, subject to the provisions of the amendment if adopted, the legislature may enact any measure designed to further the purposes of the amendment.

4. If a provision of this amendment or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or application of the amendment that can be given effect without the invalid provision or application, and to this end the provisions of this amendment are severable.

1 5. The Secretary of State shall submit this proposition to the voters
2 at the next general election as provided by article XXI, Constitution of
3 Arizona.

PASSED BY THE HOUSE JUNE 21, 2006.

PASSED BY THE SENATE JUNE 21, 2006.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 22, 2006.