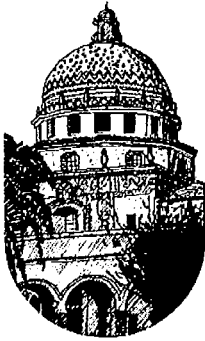


AGENDA MATERIAL

DATE 12/21/21 ITEM NO. RA9



MEMORANDUM

PIMA COUNTY ATTORNEY'S OFFICE | CIVIL DIVISION
32 N. Stone Ave., Suite 2100
Tucson, AZ 85701
(520) 724-5700 | Fax: (520) 620-6556

Attorney-Client Privilege / Confidential

This is a privileged attorney-client communication and should not be disclosed to persons other than Pima County officials and employees involved in the matter that is the subject of the communication. The privilege is held by Pima County and can be waived only by an official action of the Board of Supervisors.

To: C.H. Huckelberry, County Administrator

From: Daniel Jurkowitz, Deputy County Attorney

A handwritten signature in black ink, appearing to be 'DJ', is written over the printed name of Daniel Jurkowitz.

Date: June 16, 2021

Subject: County Referendum

You have asked whether the Board of Supervisors can refer an ordinance to the voters for approval. A county referendum generally works similarly to a state referendum. Ariz. Const. art. 4, pt. 1, § 1(8); A.R.S. § 19-141. One of the differences though is in referral of legislation by the legislative body. The State Legislature has explicit constitutional authority to refer legislation to the people for approval. Ariz. Const. art. 4, pt. 1, § 1(3). However, the governing body of a city, town, or county does not. The courts have consistently held therefore that local legislative bodies have no authority to voluntarily refer legislation to the electorate. *See City of Scottsdale v. Superior Court*, 103 Ariz. 204, 206 (1968); *Clay v. Town of Gilbert*, 160 Ariz. 335, 340 (App. 1989). Accordingly, while the voters can refer an adopted ordinance to the ballot for review, the Board of Supervisors does not have the legal authority to voluntarily refer legislation to the electorate.

REC'D 12/21/21 PCD/KFER

A handwritten mark consisting of a capital letter 'V' enclosed within a circle, located at the bottom right of the page.