

Statewide Referenda in Connecticut

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September 18, 2019 | 2019-R-0151

Issue

Under what circumstances could Connecticut hold a statewide referendum? How would a statewide advisory referendum be authorized and has Connecticut ever held such a referendum? How do ballot initiatives and popular referenda function in other states and what prohibits the legislature from authorizing them for Connecticut?

The Office of Legislative Research is not authorized to issue legal opinions, and this report should not be considered one.

Summary

In Connecticut, statewide referenda may be held (1) to ratify proposed constitutional amendments or (2) for advisory purposes (i.e., electors indicate a nonbinding opinion on one or more policy questions). It appears that the legislature could authorize a statewide advisory referendum by passing legislation to require one, either as a public or special act. Below we provide more information about each type of referendum.

The Connecticut Constitution does not permit statewide ballot initiatives or binding referenda, other than those for proposed constitutional amendments. Generally, initiative is a process that enables voters to directly place proposed statutes and, in some states, constitutional amendments, on the ballot. A binding referendum typically involves (1) the legislature placing a proposal for a new law on the ballot (i.e., a legislative referendum) or (2) voters petitioning to have a measure enacted by the legislature placed on the ballot (i.e., a popular referendum).

Constitutional Amendments

The state constitution provides for two methods by which it may be amended, both of which include ratification by the state's electors. One method is for the legislature to pass a proposed amendment that is subsequently ratified by the state's electors at a regular state election (Conn. Const. Art. XII). Whenever a constitutional amendment or other question or proposal is voted on at a regular state or municipal election, the vote must be cast and canvassed, and the result determined and certified, as nearly in accordance as possible with the law's provisions for electing state and municipal officers ([CGS § 9-369](#)).

For example, at the 2018 state election, electors considered two proposed constitutional amendments, one concerning state transportation funding and one concerning legislative conveyances of state property. These questions appeared on each municipality's [ballot](#).

The other method for amending the state constitution is for a constitutional convention to pass a proposed amendment that is subsequently ratified in a statewide referendum held no later than two months after the convention adjourns. The proposals may be presented as a whole or in such parts and with such alternatives as the convention may determine (Conn. Const. Art. XIII).

Connecticut last held a constitutional convention in 1965. The referendum on the proposed revision was held on December 14, 1965, when electors approved two proposals from the 1965 Constitutional Convention.

OLR Report [2015-R-0240](#) provides more information on the constitutional amendment process. OLR Report [2008-R-0456](#) provides more information on the 1965 Constitutional Convention.

Statewide Advisory Referenda

Authorization

It appears that the legislature could authorize a statewide advisory referendum by passing legislation to require one, either as a public or special act. The enabling legislation would need to specify (1) the question or questions to be presented to the electors and (2) procedures for conducting the referendum. It appears that the referendum could be held in conjunction with a regular state election or on a separate day determined by the legislature.

We found one example of a previous statewide advisory referendum, which was held in 1948 and concerned the formation of a world federal government.

Procedure

Referendum Held at Regular State Election. If the referendum is held in conjunction with a regular state election (e.g., in November 2020), the enabling legislation could simply require that the specified question or questions be placed on the election ballot. As described above, the vote must be cast and canvassed, and the result determined and certified, as nearly in accordance as possible with the law's provisions for electing state and municipal officers ([CGS § 9-369](#)).

Referendum Held Separately. If the referendum is held separately, however, the legislature would likely need to make several policy determinations regarding its administration, including (1) who is eligible to vote in the referendum, (2) whether voting by absentee ballot is permitted, and (3) procedures and deadlines for determining the results (e.g., whether the results would be subject to a recanvass).

For example, the enabling legislation could require, as existing law does for referenda held at state elections, that regular statewide election procedures be used where possible (see above) ([CGS § 9-369](#)). It could also extend other provisions in Chapter 152 of the general statutes to a statewide referendum (e.g., [CGS § 9-369c](#), concerning absentee voting).

With respect to voter eligibility, the law allows a person to vote in a special election or local referendum if he or she registers, and is admitted as an elector, by the day before the election or referendum ([CGS § 9-172b](#)). The legislature could extend this provision to a statewide referendum, or it could require individuals to register no later than seven days in advance, as the law requires for regular elections ([CGS § 9-17](#)). (By law, Election Day registration (EDR) is available only for a regular state or municipal election ([CGS § 9-19j](#)).)

Past Advisory Referenda

The Legislative Library researched statewide elections and referenda dating back to 1900 and found one instance where Connecticut held a statewide advisory referendum. In 1948, the state held a referendum concerning the formation of a world federal government. The referendum presented the following question:

Do you, as a sovereign citizen of Connecticut and the United States of America, direct our representatives in the national congress to urge the president and the congress to take the lead in calling for amendments to the United Nations charter strengthening the United Nations into a limited world federal government capable of enacting, interpreting and enforcing laws to prevent war?

The referendum was authorized by PA 491 of 1947 and held in conjunction with the 1948 state election. This act also required that the vote be taken “in accordance with the applicable provisions of law concerning voting upon the acceptance of amendments to the constitution of this state.”

In addition to the above referendum, the legislature over the years has considered several proposals for advisory referenda on various topics, including casino gambling and the [income tax](#). However, 1948 was the only year since at least 1900 when such a referendum was held.

Initiative and Referenda Generally

Initiative

According to the [National Conference of State Legislatures](#) (NCSL), there are two types of initiative: direct and indirect. In a direct initiative, a qualifying proposal is placed directly on the ballot. In an indirect initiative, a qualifying proposal is first submitted to the legislature, which may approve the proposal or a substantially similar one. If the legislature does not do so, then generally the proposal is placed on the ballot. NCSL reports that [23 states](#) and the U.S. Virgin Islands have an initiative process; Connecticut does not. Among other things, proposals must receive a specified number of qualifying signatures in order to appear on the ballot.

Referendum

According to NCSL, there are two types of referenda: legislative and popular. In a legislative referendum, the legislature refers a measure to the voters for their approval (e.g., a bond authorization or constitutional amendment). NCSL reports that all states have some form of a legislative referendum. (In Connecticut, it is used for constitutional amendments only.)

In a popular referendum, a measure enacted by the legislature appears on the ballot as a result of a voter petition. Generally, this type of referendum is used by voters in an effort to repeal a legislative act. According to NCSL, there is typically a 90-day period after the law is passed during which petitioning must take place. If petitioners obtain enough signatures to place the law on the ballot, then the law cannot take effect unless the voters approve it. NCSL reports that [23 states](#) and the U.S. Virgin Islands have the popular referendum; Connecticut does not.

Statewide Initiative and Referenda in Connecticut

Allowing statewide initiative or referenda in Connecticut would require amending the state constitution. According to *American Jurisprudence*, “in establishing legislative bodies, the people can reserve to themselves power to deal directly with matters which might otherwise be assigned to the legislature” (16A Am. Jur. 2d *Constitutional Law* § 321). In a 1976 decision, the U.S. Supreme

Court held that an Ohio constitutional provision authorizing a popular referendum is not a delegation of legislative power but rather an instance of the people reserving this power to themselves ([City of Eastlake v. Forest City Enterprises, Inc.](#), 426 U.S. 668, 672 (1976)).

However, the Connecticut Constitution vests the state's legislative power in the General Assembly alone (Conn. Const. Art. III, § 1) and does not have any provisions reserving this power for the people of the state. According to *American Jurisprudence*, absent such a reservation legislative acts generally cannot be made dependent upon the approval of any authority other than the legislature itself. "The legislature cannot escape its duties and responsibilities by delegating its legislative powers to the people at large" (Am. Jur. 2d supra).

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