

Voters to Consider Referendum, Constitutional Amendments on May 18

Voters will find a statewide referendum and three questions about proposed changes to the Pennsylvania Constitution on the ballot in the Municipal Primary on May 18, 2021.

The ballot questions propose three separate amendments to the Pennsylvania Constitution, based on Joint Resolution No. 2021-1 of the General Assembly. Each ballot question that is approved by a majority of the people voting on it will become part of the Constitution.

The General Assembly first proposed the amendments during the 2020 legislative session and approved them for a second time during the 2021 session, as required by the state Constitution.

Following are the referendum question and the three proposed amendments, plus simplified explanations from the Office of the Attorney General.

(Editor's note: The legislature contends that the Secretary of the Commonwealth worded these ballot questions in a biased manner before her resignation.)

Statewide Referendum, Act 2020-91: Making Municipal Fire and Emergency Medical Services Companies Eligible for Loans

Ballot Question

Do you favor expanding the use of the indebtedness authorized under the referendum for loans to volunteer fire companies, volunteer ambulance services and volunteer rescue squads under 35 PA.C.S. §7378.1 (related to referendum for additional indebtedness) to include loans to municipal fire departments or companies that



Voters in the Pennsylvania primary election will vote on a statewide referendum to expand eligibility for a state loan program to include municipal fire departments or companies with paid personnel and emergency medical services companies. Currently, only volunteer fire companies, ambulance services, and rescue squads are eligible under the program.

provide services through paid personnel and emergency medical services companies for the purpose of establishing and modernizing facilities to house apparatus equipment, ambulances and rescue vehicles, and for purchasing apparatus equipment, ambulances and rescue vehicles, protective and communications equipment and any other accessory equipment necessary for the proper performance of the duties of the fire companies and emergency medical services companies?

Plain-English Statement of the Office of the Attorney General

Act 2020-91 would authorize making municipal fire departments or companies with paid personnel and emergency medical services companies eligible to apply for loans from an already existing state loan program.

Pennsylvania voters approved the incurring of indebtedness of up to

\$100,000,000 in four previous statewide referenda: \$10,000,000 on November 4, 1975; \$15,000,000 on November 3, 1981; \$25,000,000 on November 6, 1990; and \$50,000,000 on November 5, 2002. Originally, this indebtedness funded a loan program for volunteer fire companies, volunteer ambulance services, and volunteer rescue squads.

Currently, municipal fire departments or companies with paid personnel and emergency medical services companies are not authorized to apply for loans from this program. The Pennsylvania General Assembly has determined that municipal fire departments or companies with paid personnel and emergency medical services companies are most in need of loans to replace outmoded or unsafe equipment and buildings to meet the increased demands for a higher level of service in the communities they serve.

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These loans may be used for establishing or modernizing facilities to house firefighting apparatus equipment, ambulances, and rescue vehicles. They may also be used for the purchase of new firefighting apparatus equipment, ambulances and rescue vehicles, protective and communications equipment, and any other accessory equipment necessary for the proper performance of these organizations' duties.

This referendum does not authorize incurring any additional debt to fund the loan program; it only expands the class of eligible loan applicants. It also does not expand the purposes for which loans may be made; municipal fire departments or companies with paid personnel and emergency medical services

companies may only apply for the types of loans already provided for by law and regulation.

(Editor's note: While this will make paid municipal departments eligible to borrow from the loan fund, it will also reduce the amount of money available for volunteer departments to borrow.)

Proposed Constitutional Amendment to Article III, Section 9: Relating to Termination or Extension of Disaster Emergency Declarations

Ballot Question

Shall the Pennsylvania Constitution be amended to change existing law and increase the power of the General Assembly to unilaterally terminate or extend a disaster emergency declaration — and the powers of commonwealth agencies to address the disaster regardless of its severity pursuant to that declaration — through passing a concurrent resolution by

simple majority, thereby removing the existing check and balance of presenting a resolution to the governor for approval or disapproval?

Plain-English Statement of the Office of the Attorney General

Joint Resolution No. 2021-1 proposes to amend Article III, Section 9 of the Pennsylvania Constitution to provide a new exception to traditional legislative procedure by allowing the General Assembly to terminate or extend a disaster emergency declaration or a portion of such declaration without needing the governor's approval.

Currently, Article III, Section 9 establishes a general rule that all orders, resolutions, or votes requiring approval by both the House of Representatives and Senate must be presented to the governor for his approval or veto. Resolutions for the adjournment of the General Assembly are exempted from this process.

If the order, resolution, or vote is approved by the governor, it becomes law. If the governor vetoes the resolu-



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tion, it does not become law unless two-thirds of the House and Senate vote to override the veto. The proposed amendment would create an additional exception to this customary legislative procedure for concurrent resolutions to terminate or extend, in whole or in part, a disaster emergency declaration issued by the governor.

The proposed amendment will also reverse a recent ruling of the Pennsylvania Supreme Court, which held that the Pennsylvania Constitution prohibited the General Assembly from passing a concurrent resolution to terminate the governor's COVID-19 disaster emergency declaration without presenting it to the governor for his approval. It will change the law to allow the General Assembly to terminate or extend a disaster emergency declaration through a concurrent resolution approved by only a majority of the members of the House and Senate, without having to present the resolution to the governor for his approval or veto.

The proposed amendment is limited in that it only changes the traditional legislative process for terminating or extending disaster emergency declarations issued by the governor. The amendment will not alter the current legislative procedure with respect to which orders, resolutions, or votes of the General Assembly must be presented to the governor for his approval on any other subject matter.

Proposed Constitutional Amendment to Article IV: Disaster Emergency Declaration and Management

Ballot Question

Shall the Pennsylvania Constitution be amended to change existing law so that: a disaster emergency declaration will expire automatically after 21 days, regardless of the severity of the emergency, unless the General Assembly takes action to extend the disaster emergency; the governor may not declare a new disaster emergency to respond to the dangers facing the commonwealth unless the General Assembly passes a concurrent resolution; [and] the General Assembly

enacts new laws for disaster management?

Plain-English Statement of the Office of the Attorney General

Joint Resolution No. 2021-1 proposes adding a new section to Article IV of the Pennsylvania Constitution. This amendment incorporates disaster emergency declaration and management powers directly into the Constitution by:

- Granting the governor authority to declare a disaster emergency declaration by proclamation or executive order;
- Requiring each declaration to indicate the nature, location, and type of disaster;
- Granting the General Assembly authority to pass laws providing for the manner in which each disaster shall be managed;

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Ballot Questions

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- Limiting the duration of a governor's declaration to 21 days, unless otherwise extended, in whole or in part, by a concurrent resolution of the General Assembly; and
- Preventing the governor, upon the expiration of a declaration, from issuing a new declaration based upon the same or substantially similar facts, unless the General Assembly passes a concurrent resolution expressly approving a new declaration.

Currently, disaster emergency declaration and management powers are delegated by statute to the governor. The governor has the sole authority to issue and manage all disaster emergency declarations, which cannot extend beyond 90 days unless renewed by the governor. The General Assembly may override a governor's disaster emergency declaration by concurrent resolution that must be presented to the governor for his approval or veto.

If approved, the amendment would transfer certain of the governor's existing authority to respond to and manage disaster emergencies to the General Assembly. The governor would retain the authority to issue an initial disaster emergency declaration, but the declaration's permissible length would be reduced from 90 to 21 days.

Upon expiration of the initial declaration, the amendment prohibits the governor from issuing a new declaration based upon the same or substantially similar facts without the approval of the General Assembly. The governor would no longer have unilateral authority to manage disasters but would have to do so consistent with the laws passed by the General Assembly.

If the amendment is approved, the General Assembly would be required to pass new laws establishing how each type of disaster will be managed. If added to the Pennsylvania Constitution, the proposed amendment cannot be modified or repealed except by a judicial decision finding all or part of the proposed amendment unconstitutional

or by the approval of a subsequent constitutional amendment.

(Editor's note: Current municipal declarations last only seven days before expiration.)

Proposed Constitutional Amendment to Article I: Prohibition Against Denial or Abridgment of Equality of Rights Because of Race or Ethnicity

Ballot Question

Shall the Pennsylvania Constitution be amended by adding a new section providing that equality of rights under the law shall not be denied or abridged because of an individual's race or ethnicity?

Plain-English Statement of the Office of the Attorney General

Joint Resolution No. 2021-1, if approved by the electorate, will add a new section to Article I of the Pennsylvania Constitution. This amendment creates a constitutional prohibition against restricting or denying an individual's equal rights under Pennsylvania law because of race or ethnicity.

Generally, inclusion of this amendment in the Pennsylvania Constitution signifies that freedom from dis-


crimination based on race or ethnicity is an essential principle of liberty and free government. This amendment applies to all Pennsylvania state, county, and local governmental entities and guarantees equality of rights under the law.

The amendment, if enacted, will become a part of the Pennsylvania Constitution. As such, its provisions must be applied consistent with the other provisions of the Constitution.

This equal right to be free from racial or ethnic discrimination will exist independent from any such rights under the U.S. Constitution or corresponding federal law. If the current federal protections proscribing racial or ethnic discrimination are abolished, the prohibition against such discrimination will remain in the Pennsylvania Constitution. The amendment is limited in that it creates a right only under Pennsylvania law.

Once added to the Pennsylvania Constitution, the right to be free from racial or ethnic discrimination under the law cannot be eliminated except by a judicial decision finding the amendment unconstitutional or the approval of a subsequent constitutional amendment. If approved, the General Assembly may pass new laws to implement the amendment, but it may not pass a law inconsistent with it. ♦

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COUNTY ASSOCIATION

Upcoming Conventions

MAY

May 13: Indiana County (in person)

May 19: Lawrence County (in person)

PLEASE NOTE: These convention dates had been confirmed when the News went to press. For the most current list of confirmed county conventions and the contact person for each, call PSATS at (717) 763-0930 or visit www.psats.org (scroll to the bottom of the home page and choose County Associations of Township Officials).