

HJR 92 -- REFERENDUM ON FEDERAL LAWS

SPONSOR: Pogue

Upon approval by a majority vote of the people, this proposed Constitutional amendment allows the General Assembly or the people to submit a referendum petition using the constitutionally defined process for submitting statutes referenda, respectively, which concerns whether or not a federal law or regulation is constitutionally proper under the limited and delegated powers of the federal government.

Referendum summaries are not subject to judicial review, but a challenge to the fairness and sufficiency of such summary statement may be made directly to the Supreme Court of Missouri under its original jurisdiction to decide certain election contests within 30 days of the filing of a referendum petition with the Secretary of State by the General Assembly or by referendum proponents. The Supreme Court of Missouri shall decide the matter expeditiously and shall either rule or allow the referendum on the ballot if a ruling is not feasible under general court rules and procedures by the time of the next special or general election.

If a majority of the voters approve of the constitutionality of the federal law or regulation, then it shall be enforced by this state and its agencies, courts, and political subdivisions. However, if a majority of the voters oppose to the constitutionality of the federal law or regulation, then it shall not be enforced by any agency, court, or political subdivision of this state and no state moneys shall be expended for the enforcement of the federal law or regulation.

If a federal law or regulation is declared unconstitutional by majority vote of a referendum in this state, then the courts of this state shall be stripped of jurisdiction to enforce such a particular federal law with the understanding that the federal courts are not stripped of such jurisdiction by this state and that the courts of this state shall automatically transfer any case involving such federal laws or regulations to the federal courts for vindication of any federal rights created under such federal laws or regulations. The courts of this state shall hear and apply federal laws or regulations vindicating federal constitutional rights and shall also hear and interpret all claims arising directly under the Constitution of the United States.

Also, if a majority votes in opposition to a federal law, then the courts of this state shall lack jurisdiction to enforce any substantially similar state law or law of another state and shall decline to enforce any such law. The question of substantial

similarity is delegated to the judiciary for judicial review.

The General Assembly or the people via the referendum process authorized under this section may submit multiple requests on the same federal law or regulation and the last in time vote shall prevail or, if conflicting referenda are presented at the same election and each achieves a majority vote, then the referendum having the highest vote total shall prevail.

This bill is the same as HCR 41 (2017).