



Municipal Technical Advisory Service
INSTITUTE *for* PUBLIC SERVICE

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Referenda Elections

Dear Reader:

The following document was created from the MTAS website ([mtas.tennessee.edu](https://www.mtas.tennessee.edu)). This website is maintained daily by MTAS staff and seeks to represent the most current information regarding issues relative to Tennessee municipal government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with municipal government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other MTAS website material.

Sincerely,

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Referenda Elections

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The Tennessee Supreme Court has held that "the right to hold an election does not exist absent an express grant of power by the legislature." (See *Brewer v. Davis*, 28 Tenn. 208 (1848); *McPherson v. Everett*, 594 S.W.2d 677, 680 (Tenn. 1980).) The Tennessee Attorney General's office has consistently concluded under those cases that referenda are elections for which there must be statutory authorization. Op. Tenn. Atty. Gen. No. 86-146; 95-013.

Local Referenda Permitted

The following referenda are authorized under Tennessee law:

- General obligation bonds (T.C.A. §§ 9-21-201, *et seq.*);
- Liquor retail sales (package stores) or selling alcoholic beverages for consumption on the premises (T.C.A. §§ 57-3-101, *et seq.*, T.C.A. §§ 57-4-101, *et seq.*);
- Annexation (T.C.A. §§ 6-51-104, *et seq.*);
- Local sales tax (T.C.A. §§ 67-6-701, *et seq.*);
- Adopting or surrendering the general law mayor-aldermanic charter (T.C.A. § 6-1-201), the city manager-commission charter (T.C.A. § 6-18-104), and the modified city manager-council charter (T.C.A. § 6-30-106);
- A private act passed by the General Assembly (Article XI, Section 9, of the Tennessee Constitution);
- Creating an emergency communications (911) district (T.C.A. §§ 7-86-101, *et seq.*);
- Recalling a city official if the charter permits (T.C.A. § 2-5-151);
- Adopting or amending home rule charters (Article XI, Section 9, of the Tennessee Constitution);
- Popular election of the mayor in cities incorporated under the uniform city manager-commission charter (T.C.A. § 6-20-201(b));
- Consolidating city and county government (T.C.A. §§ 7-1-101, 7-3-312, and 7-21-101, *et seq.*);
- Increasing the number of commissioners from five to seven for cities with a population greater than 20,000 incorporated under the uniform city manager-commission charter (T.C.A. § 6-20-101); and
- Approval of the issuance of retail liquor licenses to alcoholic beverage manufacturers (T.C.A. § 57-3-204).

Referendum Election Procedures

The procedures for holding any type of referendum election generally are in the law that authorizes the election. If the legislation does not address a particular type of referendum, the provisions of the Election Code apply. Additionally, T.C.A. § 2-3-204 frequently applies, and T.C.A. § 2-12-111 and T.C.A. §§ 2-6-101, *et seq.*, always apply. Elections regarding local option sales tax pursuant to T.C.A. § 67-7-706(a) shall be conducted according to T.C.A. § 2-3-204.

Resolutions, ordinances, or petitions requiring elections on questions to be held during the general election or the presidential primary must be filed with the county election commission at least 75 days before the election T.C.A. § 2-3-204(b).

The city attorney is required to summarize in 200 or fewer words any question exceeding 300 words that is to be submitted to the voters T.C.A. § 2-5-208(f).

T.C.A. § 2-5-208 requires any question submitted to the people in a local referendum to be followed by the words yes and no so the voter can mark an X opposite the proper word. Any question must be worded so that yes indicates support for and no indicates opposition to the measure.

DISCLAIMER: The letters and publications written by the MTAS consultants were written based upon the law at the time and/or a specific sets of facts. The laws referenced in the letters and publications may have changed and/or the technical advice provided may not be applicable to your city or circumstances. Always consult with your city attorney or an MTAS consultant before taking any action based on information contained in this website.

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